



INHERITANCE TAX ANDALUCIA 2018 THE NEW 1 MILLION EURO EXEMPTION

*The background
to inheritance tax
in Spain*

*New personal
exemptions of 1€
million from 2018*

*And here is the
nasty trick
in the law*



We reported in September that the minority centre left PSOE government in Andaluca was forced by the new centre right party Ciudadanos to accept a substantial change in the Impuesto sobre Sucesiones y Donaciones (ISD), Spain's inheritance and gift tax.

The Andalusian parliament approved the new rules at the end of November incorporating this in the 2018 budget. This was published on 15 December in the official gazette of the region.

This article updates our earlier article now that we have the final law to analyse.

ISD dates back to a 1987 law that replaced similar law of 1967. Since 1987, apart from some relatively insignificant tweaks, the law has remained largely untouched, including the tax rates and bands, despite the fact that inflation has reduced the real value of money by 180% since 1987. In effect, over the years, the real cost of ISD has doubled.

Because the authorities assess tax on the theoretical value of a property, regardless of the market value, and because properties have been difficult to sell in recent years, many families simply had to give up inheritances because they couldn't pay the tax.

In recent years the tax has been fully devolved to the Autonomous Communities (Andalucia, Cataluña, Madrid etc), which has seen this already unfair tax become ridiculous because regional variations are now extreme. For example: Madrid has virtually eliminated the tax by providing a 99% exemption for families but the PSOE in Andaluca, boasting its left wing credentials, actually increased tax rates for the wealthy. True to their political dogma they improved exemptions for modest family inheritances but the rules were so badly drafted that they caused even greater unfairness.

For 2018 the general exemption to ISD has been increased to 1€ million per beneficiary for immediate family inheritances. Under the old rules the exemption was 250,000€.

As we said before, the devil is in the detail and now that we have the text of the new law our worst fears have proved to be true. The politicians have done it again, just as they did with the old 250.000€ exemption. Under the old rules the 250,000€ exemption simply disappeared when the beneficiary's pre-existing wealth was more than 402,678.11€.

Under the new rules, if the beneficiary has pre-existing wealth of more than 1 Million €, the exemption disappears. This is a disgraceful piece of legislation, just as bad as the previous version.

We now have this insane situation:

- ◇ A brother and sister each inherit 1.000.000€ from a parent.
- ◇ The brother has assets of 1,000,000€ but the sister has assets of 1,000,001€.
- ◇ The brother pays ZERO tax but the sister pays approximately 300,000 Euros.

How can it be reasonable for a person with 1€ more of existing wealth to suffer an extra 300,000€ in tax?



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INHERITANCE TAX ANDALUCIA 2018 - 1 MILLION EURO EXEMPTION (cont.)

Yes, this is an extreme example, but it is the responsibility of legislators to produce sensible law that works in all circumstances.

Unfair law encourages citizens of any country to falsify tax declarations, often motivated by self defense, and it is well known that Spain has an enormous grey economy (around 25% of its GDP), probably in part because its law is often unfair due to lazy legislators and politicians who are not held to account by the press and the public.

Indeed, article 31 of the Spanish Constitution states that individuals should pay tax based on a tax system that is just and based on principles of equality and proportionality. Obviously, this new law does not meet these perfectly sensible criteria and it must be challenged in the constitutional court of Spain.

In fact, during the legislative process in the Andalusian parliament, the Partido Popular protested that the new law was a fraud. At that time, press releases promoted by Ciudadanos and PSOE were trumpeting that ISD had been eliminated in Andalusia. For the wealthier citizens this could not be further from the truth as for them nothing has been changed.

The PSOE and Ciudadanos ignored the protests of the PP and the press has done virtually nothing to expose this defective law.

Apart from this very negative view we recognize that this new exemption is truly welcome and will bring big savings for most families.

Because each beneficiary can benefit from a 1 million exemption, in the case of Wills that are designed to spread assets between several family members, exemptions of many millions of € can be produced.

Apart from the defect in this new law, this is very good news indeed for most people wanting to invest and live long term in Andalusia.

It's a pity that the politicians in areas like Andalusia continue to discriminate against the wealthy, forcing them to choose to live in other parts of Spain or other countries. The wealthy are the most mobile segment of society so all the Andalusian politicians achieve is to shoot themselves in the feet.

A final thought:

There are many foreigners who live in Spain but 'choose' not to join the Spanish tax club on the basis that they pay less tax if they remain in the tax system of the country of their origin.

The problem with this strategy, quite apart from the fact that it is illegal..., is that the 1 Million € exemption is only available to tax residents of Andalusia.

We often find that the cost of income tax in Spain is not much higher, and in some cases actually lower than in other countries, so pretending to be not resident in Spain is really not a good idea and could cost a family many thousands of Euros.

For our free income tax calculation service for persons considering becoming tax residents of Spain, visit: spenceclarke.com/income-tax-calculator

Multiple 1m € exemptions are possible

Non residents beware!!



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