

SPANISH TAX ADVANTAGES FOR INBOUND EXPATRIATES

With the aim to improve the competitiveness of the Spanish economy, since 2004 the Spanish legislation encourages foreign executives and qualified employees to establish their residence in Spain by offering them significant tax advantages.

Foreign multinationals play an important role in the continuous growth of the Spanish economy. Spain is an attractive destination not only for the companies themselves but also for its executives who can benefit from a favorable tax regime.

According to Spanish Personal Income Tax Law, a foreign individual acquiring Spanish tax residence as a consequence of his moving to Spain is generally liable to income tax on his worldwide income. The marginal tax rate is progressive and varies depending on the Spanish region where the taxpayer resides. The lowest maximum rate is 44.50% in Madrid and the highest one reaches 48% in Andalusia, Catalonia and Asturias.

Starting from year 2004, the law offers a special tax regime for employees settling in Spain by allowing them to be treated as non-residents for tax purposes. As a result, they will be liable to tax only on their Spanish-source income (with the exception of their labor income) at advantageous tax rates.

As from 1st January 2015, the regime has been modified and extended to those who are appointed as directors of companies, provided that they are not deemed to be related to such entities in the sense of the Spanish transfer pricing regulations. Additionally, there is no longer a quantitative threshold for the application of the regime and therefore, it may be applied by any taxpayer who meets the legal conditions, but on the other hand reduced rates are only available for the first €600,000.

This tax benefit is commonly known as “Beckham’s Law” due to the fact that, at its first stage, it benefited mostly foreign football stars signed by Spanish clubs, such as David Beckham. However, the current legislation expressly excludes professional sportspersons from its field of application.

Scope of the regime

As a general rule those individuals who move into Spain and establish their tax residence therein become liable to Personal Income Tax.

However, those inbound expatriates who become tax residents in Spain as a result of spending more than 183 days in Spanish territory can opt to be treated as non-residents under this special regime should they meet certain qualifying requirements:

1. They must not have been tax residents in Spain in the 10 previous tax years.
2. The transfer to Spain must be a consequence of:
 - a. An employment contract with a Spanish or foreign employer.
 - b. The acquisition of the condition of director of a company with which he is not deemed as a related party under Spanish transfer pricing rules (a participation of at least 25% would trigger a related party relationship).

3. Taxpayers who carry out an economic activity in Spain though a permanent establishment in Spain are excluded from this regime.

Tax treatment

Individuals qualifying and opting for the “inbound expatriate” tax regime will be taxed according to the Non-Residents Income Tax Law for the tax year in which they move to Spanish territory and for the next five years. Consequently, among other benefits, they will only be liable to tax on Spanish-sourced income (with the exemption of labor income as explained below). Nonetheless, there are some special rules that are of application to them:

- They will not benefit from the exemptions laid down in the Non-Residents Income Tax Law.
- Inbound expatriates will not have the opportunity to offset tax losses against any future profits.
- They will also be liable to Wealth Tax as non-resident persons. Therefore, only assets and rights located in Spain will be subject to Wealth Tax.
- It is not required that the work is effectively performed in Spain. However, as an exemption to the general rule stated above, all labor income obtained worldwide will be subject to taxation in Spain, regardless of its source country.
- Inbound expatriates will be entitled to a tax credit for taxes paid abroad on foreign-source income.
- Two different progressive tax rates apply to the income obtained by taxpayers as explained in the following chart:

Employment income and other income not qualifying as savings income	
<i>Taxable base (Euros)</i>	<i>Tax rate</i>
Up to 600,000	24%
From 600,000.01	47% (45% as from 2016)

Savings income (dividends, interest, capital gains resulting from disposal of assets)	
<i>Taxable base (Euros)</i>	<i>Tax rate</i>
Up to 6,000	19.50% (19% as from 2016)
From 6,001 to 50,000	21.50% (21% as from 2016)
Over 50,000	23.50% (23% as from 2016)

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