



PEREZ
LEGAL GROUP



GUIDE TO SELLING YOUR SPANISH PROPERTY LEGALLY

SELLING YOUR SPANISH PROPERTY ---

If you are selling your Spanish property, please be aware that you will be involved in a legal procedure, the preparation of certain documents is necessary for this process.

In order to proceed you should appoint a Spanish Lawyer and Chartered Accountant to carry out on your behalf all of the necessary tax forms and due diligences for the preparation and legal representation of the sale of your property.

To take the property off the market you should ask the buyer, through your lawyer, to request a deposit. If you have involved a real estate agency they will take care of this process putting in contact lawyers of both parties in order to deal with the sale of your property.

You should be aware of the following:

YOU WILL BE REQUESTED THE FOLLOWING DOCUMENTS:

- COPY OF TITLE DEED OF THE PURCHASE
- UTILITY BILLS OF YOUR PROPERTY AS IBI -LOCAL REAL ESTATE TAX RECEIPT, RUBBISH COLLECTION TAX, ELECTRICITY BILL, WATER BILL AND COMMUNITY FEES (IF APPLICABLE). COPIES of the receipt WILL BE SUFFICIENT.
- CEE (ENERGY EFFICIENCY CERTIFICATE) to be undertaken by an Arquitect/Engineer. (Explained below).
- NIE CERTIFICATES & COPIES OF PASSPORTS.
- UPDATED LAND REGISTRY HISTORY OF YOUR SPANISH PROPERTY
- COPY OF THE LICENSE OF OCCUPATION OR RESPONSIBLE DECLARATION DULY GRANTED BY THE TOWN HALL

A) What are the costs, fees and taxes I have to pay as a seller? Private ownership:

Capital Gains Tax- Before the tax reform that came into effect on 1st January 2012 vendors were taxed differently with regards to capital gains tax, depending on whether they were resident or not for tax purposes.

This difference has now been eliminated and all vendors are treated equally.

The rate applicable since 12th July 2015 for citizens who are residents in the EU, Iceland and Norway is 19.5%.

The rate applicable as from 1st of January 2016 for citizens who are residents in the EU, Iceland and Norway will be 19%.

The capital gain generated by the sale of a Spanish property acquired between the 12th of May 2012 and 31st of December 2012 is exempt from paying 50% of the tax.

B) Corporate Ownership.

If the property is owned by a Spanish Company, the capital gain is included in the profit a loss account of the company. The general rate is 30%.

C) Calculation of the capital gains tax.

This is the difference between the title deed value upon purchase and exit value (title deed value upon sale). The entry value could be also increased with any investments made in the property (less depreciation) and with any direct purchase costs. The exit value is reduced by all relevant sales costs as real estate agent commission fee, legal fees, plusvalia cost and 3% retention which is explained below.

D) 3% Retention

If a buyer is conducting a purchase from a non resident seller, the buyer must withhold the 3% of the purchase price. This buyer will have 30 days from the completion date of the property to proceed with the payment.

If the seller is not making any gain in the sale of this property she/he will be entitled to request a refund to the Spanish Tax Authorities.

Once the refund of the withholding tax has been applied, it should be taken into consideration that the Spanish Tax Authorities will check the tax status of the non-resident seller and if there is any non-resident imputed income tax of the previous 4 years that has not been filed and paid will be claimed by the Spanish Tax Authorities. They will not make the refund until these last 4 years are duly filed and updated in the payment.

E) What is the PLUSVALIA?

This is the tax based on the increase in value of the land on which the property has been built and becomes payable each time there is a change of ownership.

The amount to be paid, in concept of plusvalia, will vary depending on the length of ownership and the size of the property.

Under Spanish law the seller is usually the liable party to settle this payment down.

When a non-resident individual sells a property it is the buyer who normally has the responsibility to undertake the payment of this tax, withholding the corresponding amount from the selling price when the seller is non-resident for tax purposes.

The land registry will not register the sale without being provided with evidence of having made a voluntary payment of this tax.

F) When the seller is a Spanish resident for tax purposes.

- A resident who sell his main home and invests the money in a new home (within 2 years), is exempt from capital gains tax when she/he is selling the property. Under Spanish law a property is considered your "main home" if you have lived in it for the last 3 years of ownership.
- Residents aged over 65 years old are exempt from Capital Gains Tax when selling their main home. The seller must have lived in in for the last 3 years before selling it.
- If you are non Spanish national but you are fiscally resident in Spain for tax purposes, the Notary Public will not apply the retention of the 3% but you need to proof with a certificate from the tax office at the completion date that you are a fiscal resident and you are registered with the Spanish Tax Authorities. If this is not the case the Notary Public will have to apply the exemption.

G) Energy Efficiency Certificates

Spain has introduced a law (Real Decreto 235/2013) obliging property owners to get energy efficiency certificates before they can sell or rent their homes, in line with other European countries. The decree establishes the requirements to make an energy efficiency certificate available for buyers and tenants, providing objective information on the energy characteristics of the existing building. This allows the public and potential buyers, or lessors, to assess and compare the energy characteristics of different buildings in their decision prior to procurement or signing of a lease.

Do I need to provide and register the Energy Efficiency Certificate?

Yes, you should provide it on or before completion and it should be enclosed in the title deed of the sale at the Notary Public office. The buyer should receive a copy together with the rest of the documents mentioned.

The certificate must be registered by the building owner with the Autonomous Administration. The Autonomous Administration may keep a record of these certifications in its territory and it is anticipated they will take into account the energy efficiency rating of the existing buildings in its jurisdiction to regulate a greater, or lower, tax burden based on the energy rating of the individual properties.

For any information contained in this guide, please contact us on info@perezlegalgroup.com or raquel@perezlegalgroup.com and we will be able to help you.

PEREZ LEGAL GROUP has helped thousands of British clients to make their dream come true. Over 20 years of experience in property law, non-resident taxation and legal conveyance (sale and purchase), we have performed a professional and second-to-none service tailored to our clients' needs.

We will represent clients buying in ANY PART OF SPAIN with no limitations in any area, as we have done throughout all these years.

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NON RESIDENT TAXATION

SPANISH WILLS & INHERITANCE TAX

TAXES ON PROPERTY

LEGAL CONVEYANCE OF LAND, PROPERTIES & PREMISES

NIE & RESIDENCIA APPLICATIONS

SPANISH COMPANY PROPERTY HOLDERS (DORMANTS)

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WORKING & STARTING A BUSINESS

REGISTRATION OF ANY DEEDS & POWER OF ATTORNEYS

ACCOUNTING & FISCAL SERVICES FOR INDIVIDUALS & BUSINESSES



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