

Spain

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1. Types of tax

1.1 Inheritance and gift tax

According to the Spanish Gift and Inheritance Tax Law, this tax is levied on the acquisition by individuals of assets (whether tangible or intangible) by virtue of inheritance (*mortis causa*), donation (*inter vivos*) or life insurance policies where the payer of the premium and the beneficiary are different persons (subject to certain exceptions).

Gift and inheritance tax are similar across the different Spanish regions. However, the autonomous regions may introduce limited modifications to the general gift and inheritance tax regime as follows:

- ▶ They may increase or expand the range of reductions to the taxable base.
- ▶ They may modify the general scale of rates and the special personal rates.
- ▶ They may increase or expand the range of tax credits available.

Additionally, the autonomous regions of Navarre and Basque Country have a wide right to self-regulate gift and inheritance tax. Taxation in these regions is significantly different from the mainstream Spanish tax laws.

The legislation of an autonomous region applies where the heir or donee is a Spanish resident and the deceased or donee has been a resident for a greater number of days in that particular autonomous region during the five-year period prior to the decease or donation.

Donations of Spanish real estate to Spanish resident donees are taxed by application of the legislation of the autonomous region where the property is located.

1.2 Real estate transfer tax

The transfer of real estate by inheritance or gift is exempt from Spanish real estate transfer tax.



1.3 Endowment tax

As a general rule, donations made to charitable foundations (meeting certain requirements and pursuing special charitable purposes) would allow the donors to claim a tax credit.

If the donor is a corporation, then a tax deduction of 35% of the amount donated could be applied if certain requirements are met. Nevertheless, the tax base of the deduction (this is the amount to which the 35% deduction would be applied) cannot exceed 10% of the period's total taxable base. Non-deducted amounts due to an insufficient tax quota can be applied during the next 10 years.

If the donor is an individual, then a tax deduction of 10% (or 25% if some conditions are met) of the amount donated could be applied, being also the tax base of the deduction subject to the limit of 10% of the period's total taxable base.

1.4 Transfer duty

Inheritance or gifts are exempt from Spanish transfer duty.

1.5 Net wealth tax

Following the publication of Royal Decree 13/2011 on the Official Gazette, Spanish wealth tax was reintroduced for 2011 and 2012, and subsequently extended to 2013 and 2014. The applicable law will continue to be mainly the same as the one in force prior to its suspension in 2008, with a number of slight changes.

Are there any exempt assets?

The law grants exemptions to certain assets, notably:

- ▶ Habitual dwelling: The Royal Decree introduces an exemption on the first €300,000 (previous exemption amounted to €150,000) of property worth per taxpayer.
- ▶ Family business relief: This continues to apply and exempts from tax business property, including shares in operating companies, provided certain conditions are met.
- ▶ Works of art: Provided certain requirements are met and the National Heritage regulations are complied with.

Is there any other exempt amount?

The Royal Decree has increased the general amount exempt to €700,000 of net worth per taxpayer, now including nonresident individuals as well (unlike prior to 2008). Consequently, taxpayers with net taxable assets below €700,000 will not be subject to tax. The law continues to include an obligation to submit tax returns for taxpayers with gross assets in excess of €2 million, even if there is no tax payable.

What are the rates and when is the tax due?

The rates remain unchanged. They are determined by application of a progressive scale of rates ranging from 0.2% to 2.5%. The current marginal rate of 2.5% applies to taxable net worth (after the €700,000 reduction) in excess of €10.7 million.

Tax filings and payments will be due at the same dates as income tax filings, i.e., May or June 2014 in respect of the year ended 31 December 2013.





3. Rates

The taxable base is taxed (both for gift and inheritance tax purposes) by application of the following progressive scale:

Up to	EUR	Remaining	%
€0.00	€0.00	€7,993.46	7.65
€7,993.46	€611.50	€7,987.45	8.50
€15,980.91	€1,290.43	€7,987.45	9.35
€23,968.36	€2,037.26	€7,987.45	10.20
€31,955.81	€2,851.98	€7,987.45	11.05
€39,943.26	€3,734.59	€7,987.46	11.90
€47,930.72	€4,685.10	€7,987.45	12.75
€55,918.17	€5,703.50	€7,987.45	13.60
€63,905.62	€6,789.79	€7,987.45	14.45
€71,893.07	€7,943.98	€7,987.45	15.30
€79,880.52	€9,166.06	€39,877.15	16.15
€119,757.67	€15,606.22	€39,877.16	18.70
€159,634.83	€23,063.25	€79,754.30	21.25
€239,389.13	€40,011.04	€159,388.41	25.50
€398,777.54	€80,655.08	€398,777.54	29.75
€797,555.08	€199,291.40	excess	34.00

The resulting gross tax should be further increased by application of certain additional coefficients, which take into account the acquirer's net wealth prior to the acquisition,¹ as well as his or her relationship with the donor/deceased (as per the groups mentioned in Section 4.5).

Donee's pre-existing wealth (EUR 000)	Group (family relationship)		
	I and II	III	IV
0-403	1.0000	1.5882	2.0000
404-2,007	1.0500	1.6676	2.1000
2,007-4,020	1.1000	1.7471	2.2000
4,020+	1.2000	1.9059	2.4000

Therefore, the effective maximum rate may reach 81.60% (i.e., maximum general rate: 34% x maximum personal rate: 2.4 = 81.60%).

These rates have been slightly modified in certain autonomous regions.

¹ The net wealth prior to the acquisition is calculated accordingly to Spanish Net Wealth Tax provisions (see Section 1.5).



- ▶ Gifts to the same donee within a three-year period are treated as single gifts; gifts to heirs within a four-year period are added to the taxable basis for inheritance tax purposes.
- ▶ The legislation provides for quick succession relief for assets transferred one or more times within a period of 10 years (for transfers to descendants on death only).
- ▶ There are special rules governing life and temporary usufructs created by reason of inheritance or donation.
- ▶ Important reductions may apply to the transfer of family business and/or art collections to certain family members.
- ▶ Foreign tax relief is available by application of the ordinary imputation method (i.e., the lesser of the foreign tax paid and Spanish tax attributable to the foreign asset).
- ▶ With certain exceptions, gifts trigger capital gains in the hands of the donor for personal income tax purposes, computed as the difference between the acquisition cost and the market value of the assets donated.
- ▶ No income or capital gains are deemed to arise in the hands of the deceased for personal income tax purposes on the difference between the acquisition cost and the market value of the assets comprised in the estate.
- ▶ Since 1 January 2004, many of the autonomous regions have established some modifications in the gift and inheritance tax, including the following:
 1. Balearic Islands, Asturias, Galicia and Murcia have almost eliminated taxation in cases of inheritance by Group I acquirers (descendants under 21 years old).
 2. La Rioja, Cataluña, Castilla La Mancha and Madrid, have almost eliminated taxation in cases of inheritance by Group I and II acquirers (ascendants, descendants and spouse). Murcia has recently removed the 99% tax credit for heirs belonging to Group II.
 3. For 2014, Catalonia only maintains the 99% tax credit in the case of inheritance by the spouse. For all other heirs, such tax credit will be reduced progressively as the taxable base increases.
 4. Castilla La Mancha and Madrid have almost eliminated taxation in cases of donation to Group I and II acquirers (under certain formal conditions).
 5. Valencia has recently reduced the applicable discount from 99% to 75% in cases of inheritance and donation regarding Group I and II acquirers.
 6. Aragón has established an exemption up to €3 million in cases of heirs under legal age (18 years).

With regard to Basque Country and Navarre, transfers of assets by residents in these territories to their spouse, ascendants and descendants by inheritance and by certain donations are exempt from gift and inheritance tax or taxed at very reduced rates.



4. Exemptions and reliefs

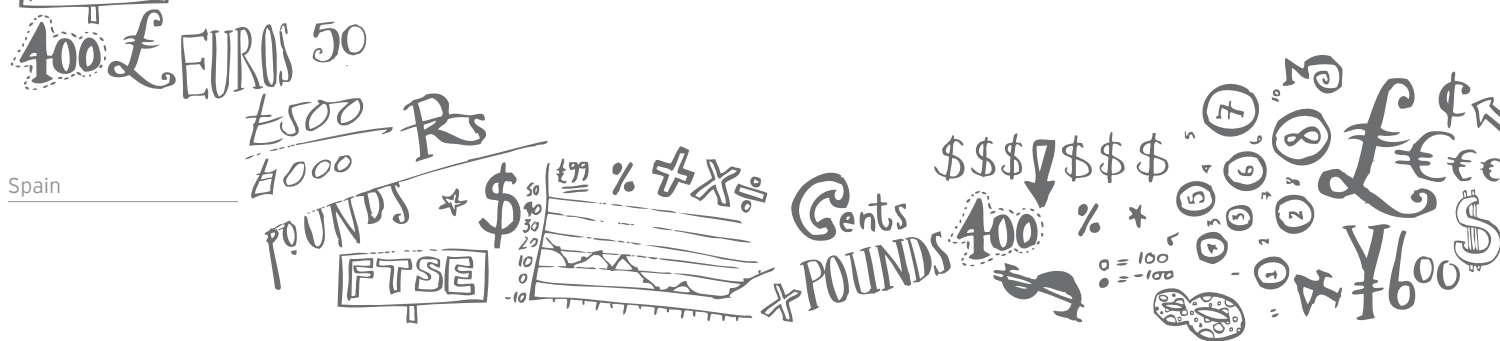
The taxable value of the acquisition by the taxpayer is determined by taking into account the fair market value of the assets forming part of the estate or donated, or the benefit from the life insurance policy.

Encumbrances and liens attached to the assets of the estate or donated along with the liabilities transferred by the deceased or donor and certain debts and expenses related to the deceased may be deducted. There are significant variations depending on whether the taxpayer is a Spanish tax resident or nonresident.

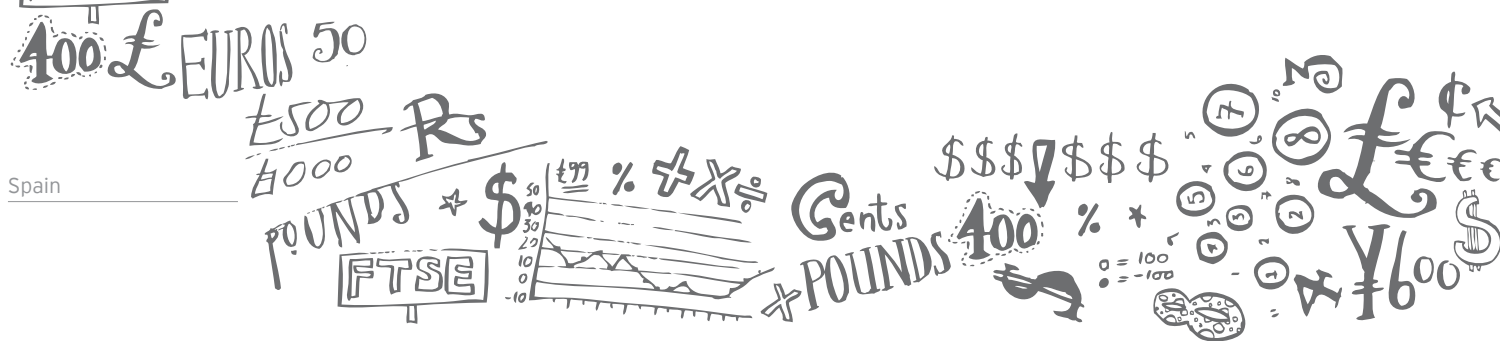
The resulting amount is further reduced, regardless of the residence status of the acquirer, by application of certain allowances in cases of inheritance or life insurance benefits, as follows:

► Reductions on inheritance, depending on the family relationship between the heir and the deceased, as follows:

1. Group I: descendants under 21: €15,956, plus €3,990 for each year the descendant is under 21 years. Total reduction may not exceed €47,858.
2. Group II: descendants older than 21, spouse and ascendants: €15,956.
3. Group III: ascendants and descendants by affinity. Second- and third-degree collaterals (brothers and sisters, uncles and aunts, nieces and nephews): €7,993.
4. Group IV: others: 0
 - a. Disabled acquirers: €47,858 or €150,253. Disability is determined according to Spanish social security regulations.
 - b. Acquisition of the principal private residence by close relatives: 95% of the real estate value, up to an amount of €122,606.
 - c. Benefits deriving from life insurance policies may be reduced by 100% up to a maximum amount of €9,195 where the beneficiary is the spouse, ascendant or descendant of the payer of the premiums.
 - d. There are a number of transitional measures applicable to life insurance policies contracted before 19 January 1987.
 - e. Acquisition of qualified shareholdings in family-owned operating companies by certain relatives (including the spouse of the deceased or donor). This reduction is applicable, up to 95% of the shares' value, provided that a number of requirements are met, including that the conditions required for wealth tax exemption are met as of the date of death. This reduction also applies to donations, subject to the fulfillment of additional requirements.









A separate property regime (*separación de bienes*) is selected by a growing number of couples, especially by high-net-worth individuals. In addition, this regime is applicable by default in Catalonia and the Balearic Islands. If this regime is applicable, each spouse has his or her own separate possessions, which are managed individually.

10.5 Intestacy

Testamentary documents and intestacy

A will is a legal document that regulates an individual's estate after death. Spain is a member of The Hague Treaty of 5 October 1961, regarding will formalities, and consequently, will accept the formal validity of a will drawn under:

- ▶ The laws of the deceased's domicile, nationality, place of residence at the time of execution of the will or at death.
- ▶ The laws of the place where the will has been executed.
- ▶ The laws where real estate is located, but only regarding real estate.

If there is no valid will at death, then the deceased's estate passes under predetermined rules known as intestate succession, in the following order:

- ▶ Children and other descendants (observing forced heirship rules applicable to the surviving spouse).
- ▶ Ascendants (observing forced heirship rules applicable to the surviving spouse).
- ▶ The surviving spouse (special rules apply in the case of separated couples).
- ▶ Other relatives, up to the fourth degree (uncles, aunts, nephews, nieces and cousins).
- ▶ The Spanish state.

10.6 Probate

The act by which a person disposes of assets or part thereof after their death is called a will. The testator may dispose of his or her property by inheritance or legacy. A will is a personal act: its formation cannot be left, in whole or part, at the discretion of a third party or made by commissioner or agent.

An individual that has no forced heirs may dispose by will of all his or her property or part thereof for any person having capacity to acquire them.

An individual having forced heirs may only dispose of property in the manner and within the limitations set out in forced heirship rules stated before.

11. Estate tax treaties

11.1 Unilateral rules

This is not applicable in Spain.

11.2 Double-taxation treaties

Spain has concluded estate-tax treaties with France, Greece and Sweden.