

*This guide has been prepared by an independent third-party firm.*

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## **SPAIN – TAX CONSIDERATIONS ON SHORT-TERM LEASES**

The following information is a guide to help you get started in learning about some of the tax requirements that might apply to you when providing short-term accommodation in Spain.

Tax can be tricky and it is important to ensure that you keep up to date with your tax obligations and remain tax compliant. The timely preparation, filing and payment of taxes are your responsibility.

If you are an individual supplying short-term accommodation in Spain, make sure you understand each of the following types of taxes and pay those that apply to you:

- Income taxes
- Value Added Tax ("VAT")

Please understand that this information is not comprehensive, and is not intended to be legal advice. If you are unsure about your local tax obligations, we encourage you to check with official local sources, or to seek advice from a qualified professional.

Please note that we do not update this information in real time, so you should confirm that the laws or procedures have not changed recently.

### **INCOME TAX**

If you earn income in Spain, you will probably have to pay the Spanish tax authorities a percentage of your income as tax. Below is an outline of the tax that may arise on income earned from short-term leasing in Spain and how to pay it to the Spanish tax authorities.

The **tax year in Spain** runs from January 1 to December 31.

### **Reporting tax in Spain**

The general rule is that taxpayers should file their Spanish income tax returns online. However, there are three other options for the submission of the income tax return (i) to fill the return online, using the corresponding application but submitting the printed form before the bank (in case of payment) or before the corresponding local tax office (in case of zero/refund tax debt), (ii) by scheduling a phone call with the tax offices or (iii) by directly scheduling an appointment

with the local tax office. The form used depends on your tax status. Therefore, we recommend you contact your local tax advisor or reach out to the Spanish Tax Authorities to find out which form you have to use.

Tax resident individuals are subject to Personal Income Tax and use Form 100 to file their annual tax return; individuals subject to the special tax regime under article 93 of the Spanish Personal Income Tax Act for workers posted to Spain use Form 151/150.

Non-resident taxpayers are subject to Non-Resident Income Tax if they earn income from leasing of a property based in Spain. Those without permanent establishment use Form 210 (which is valid for non-resident individuals and for non-resident companies without permanent establishment) to declare their income, and non-residents with permanent establishment use Form 200 (which is valid only for companies). Any references made here to non-residents are only applicable to non-residents without permanent establishment. For more information, see section “Specific rules applicable in Spain to income earned from short-term leasing” below.

### **Reporting tax - filing deadline**

For regular tax residents and individuals subject to the special tax regime, the filing and payment deadline is usually June 30 of the following tax year (for example, the deadline to submit income tax returns for the 2021 tax year would be June 30, 2022).

If you are a non-resident taxpayer, there are quarterly deadlines for filing and paying Non-Resident Income Tax, which fall, generally, on the 20th day of the month following each quarter (20th of April, 20th of July, 20th of October or 20th of January). As mentioned above, the general rule is that all tax forms must be filed online, however, there are other options for the submission of these kind of returns (*i.e.*, (i) to fill the return online using the corresponding application but submitting the printed form before the bank (in case of payment) or before the corresponding local tax office (in case of zero/refund tax debt) or (ii) by directly scheduling an appointment with the local tax office). In addition to this, please note that if you wish to perform the tax payments by direct debit, the deadline to file the forms will be on the 15th day of the month following each quarter.

### **Spanish tax authorities' contact details**

The telephone numbers for general information are +34 901 335 533 and +34 91 554 87 70. The tax officials only speak Spanish.

You will find more contact information on the [Spanish tax authorities' website](#).

### **Spanish income tax rates**

For regular tax resident individuals, there is a progressive tax scale ranging from 18.5% to 54%, which varies depending on the autonomous region where you reside.

If you are subject to the special tax regime for foreign workers in Spain, a 24% rate applies to the first €600,000 of income. For income above that threshold, a 47% rate applies. This regime applies in general, as some other requirements have to be met, to foreign individuals who acquire Spanish tax residency as a result of their assignment to Spain (the individuals must move to Spain due to an employment contract or because the individual has become director of an entity in whose capital he does not hold an interest).

Non-resident individuals are subject to a 24% (regular fixed tax rate), or a 19% rate if they are residents in an EU Member State or EEA country.

### **Threshold for paying income tax in Spain**

A threshold applies to Spanish tax residents, depending on the type of income they receive. Specifically, if the rental income received (together with other kinds of income such as capital gains, salary income, economic activity income, if applicable) is below €1,000 in the corresponding year, they are not required to file a tax return.

If you are non-resident or are subject to the special tax regime, there is no threshold.

### **Specific rules applicable in Spain to income earned from short-term rentals**

Most income from short-term rentals is considered rental income.

However, the income will be considered as deriving from an economic activity if the lessor employs a full-time worker and/or hotel services are performed, such as catering, cleaning during the stay and laundry services.

Additionally, if you are a non-resident in this situation, you may have a permanent establishment in Spain. If any of these situations apply to you, additional obligations and particular rules apply, other than the general information provided below. Therefore, we encourage you to seek advice from a qualified professional to make sure you fulfil your obligations properly.

Please refer to the Spanish tax authority website for further information regarding your taxes on the [Spanish tax authorities' website](#).

Where you have any doubts regarding your current tax position, we would encourage you to consult a tax advisor.

### **Typical expenses that can be deducted from an individual's income derived from short-term rental activity**

Expenses paid by the rental property owner related to the rental activity can be deducted from this income, including -among others if proved that are connected with the income obtained-:

- Mortgage interest
- Depreciation
- House insurance
- Property taxes
- Garbage taxes
- Agency costs (such as the Airbnb service fee)
- Maintenance and repair costs
- Other supplies (energy, water, etc.) if paid by the lessor

For home sharing rentals, in which the individual only rents a room or other parts of the property, the taxpayer may only deduct the above mentioned expenses in proportion to the part of the property rented.

Please note that taxpayers subject to the special tax regime and non-residents, who are not resident in an EU or EEA country, cannot deduct expenses from their rental income.

### **Depreciation**

Effective depreciation costs on property are deductible under Spanish law. The depreciation cost will be considered effective if it does not exceed 3% of the cadastral value or the acquisition value of the property, whichever is higher, excluding (in both cases) the land value.

The local tax authorities and the Spanish tax authorities indicate the cadastral value in the local property tax receipt and "*Datos Fiscales*", respectively, including the allocation of the land and the construction value.

### **General taxes on property**

If you own a house in Spain (either if you are resident or non-resident for tax purposes in Spain) you may be subject to income, wealth and property taxes, regardless of whether it is empty or rented.

If the house remains empty for all or part of the year, a deemed income applies to these periods, being such income equal to 2% of the house's cadastral value—or 1.1%, if the authorities have reviewed the cadastral value in the last ten years—and proportional to the number of days the house remains empty during the tax year. After that, general income tax rates are applied to determine the tax due.

If the property has no cadastral value, the deemed income that should apply is equal to 1.1% on the 50% of the house acquisition value.

Furthermore, ownership of properties is subject to local property tax (Impuesto sobre Bienes Inmuebles, "IBI"). This is a local tax and the applicable tax rate depends on the municipality.

Finally, properties owned by individuals (either resident or non-resident) may also be subject to Net Wealth Tax. It would be advisable for you to seek advice from a qualified professional to make sure you fulfill your obligations properly.

### Foreign rental income for Spanish tax residents

If you are a tax resident in Spain, any income you receive from rental of properties located abroad is also subject to Personal Income Tax in Spain. In this case, an allowance may be applicable to avoid double taxation. This amount of the allowance is limited according to Spanish law and double taxation treaties.

Sample tax computation
Laura owns a 2 bedroom house. She started renting out a room in her house from time to time from June to December 2021 (214 days). This income is deemed to be rental income.
In 2021, Laura received a total gross rent of €12,000.

Laura incurred the following expenses related to the house from June to December 2021: mortgage interest €5,500; depreciation €1,980; local property tax €350; house insurance €500; electricity/gas €600.		
		€
Gross rental income		12,000
<i>Less allowable expenses:</i>		
	Mortgage interest**	(3,225)****
	Depreciation*	(1,161)
	Local property tax**	(205)
	House insurance**	(293)

	Electricity/gas***	(600)
Net taxable rental income		6,516
<p><i>*Depreciation is calculated on the property value as follows, assuming a property value of €220,000 @ 30% @ 3% = €1,980 (this will be further restricted owing to prorating as outlined below).</i></p> <p><i>**If the house is not rented full-time during the year, all expenses generated annually (such as mortgage interest, house insurance, and local property taxes) are deductible only for the portion of the year in which the property is rented out. The above example has been prorated as the property was only rented from June to December. Thus, in this example, 214/365 portion of the expenses may be deducted.</i></p> <p><i>***If the expense corresponds to the time during which the property was rented, prorating is not necessary.</i></p>		

## **VALUE ADDED TAX**

Tax systems are complicated, so you should take time to understand the rules that apply to you and your particular situation.

Broadly speaking, VAT is applied to most consumer goods delivery and services supplied in Spain (the Canary Islands and the cities of Ceuta and Melilla are not part of Spanish territory for VAT purposes).

Properties on the Canary Islands or in the cities of Ceuta and Melilla may also be subject to regional consumption taxes. If this is your case, we encourage you to seek advice from a local qualified professional if you need help determining whether you are subject to any of them.

A person who supplies goods and/or services in Spain may have to charge VAT and pay this to the Spanish tax authority. As with all taxes, VAT can be tricky and we would encourage you to consult with a tax advisor regarding your potential VAT obligations in Spain.

If you are currently renting a room to guests, you may be required to apply VAT to your rental charge and to pay this VAT amount to the Spanish tax authorities. As Airbnb is not supplying the rental, it is the responsibility of the host to consider local VAT obligations of the rental charge.

**Do I need to collect any VAT from guests if I lease short-term accommodation in Spain?**

In general, individuals that habitually or occasionally perform a business activity in Spanish territory for VAT purposes must charge VAT for the supply of goods and services.

However, accommodation services without providing hotel services (such as catering, cleaning during the stay, and laundry services) is an activity considered subject to, but exempt from VAT under Spanish law. If the host only performs this activity, no VAT should be charged, and no registration or filing obligations apply.

In any other case (*i.e.*, renting out your house with the provision of the above hotel services), you are required to register for VAT purposes if you perform VAT taxable activities subject to and not exempt from VAT in Spanish territory for VAT purposes (no minimum threshold currently applies in Spain). This rule applies regardless of whether you are an individual established in Spanish territory for VAT purposes.

We encourage you to seek advice from a qualified professional if you need help determining whether you are subject to VAT obligations in Spain.

For further guidance on registering for VAT, please see the Spanish tax authorities' [website](#).

### **VAT applies to me. How do I determine how much tax I need to collect from my guests?**

VAT rates differ per country and change periodically. We recommend you regularly check with the local tax authority to get the most up-to-date VAT rates applicable in the country where you are required to charge VAT.

On the date of this document, the Spanish VAT rate applicable to the supply of accommodation services is 10%.

### **VAT applies to me. How do I collect VAT from guests?**

If you are obliged to charge VAT on the services provided to your guests, note that you have to collect VAT from them and file VAT returns to the Spanish tax authorities. Please note that the VAT collected from guests should be paid to the Authorities, but these amounts may be compensated with the input VAT amounts. Please contact a local qualified professional for advice in this regard.

To collect VAT from guests, some obligations apply, such as issuing an invoice to guests indicating, among other compulsory information, the price and the amount of VAT due on those services.

VAT returns in Spain typically cover quarterly periods (*e.g.*, January - March) and they must be

filed by the 20th day of the month following that quarterly period (e.g., the January - March VAT return should be filed by April 20th). The payment must be made on the same day the VAT return is filed.

Also, a summarized annual return including all transactions carried out in a year must be filed in January of the following year (exceptions may apply). This return is called a form 390 and must be filed by individuals who file quarterly returns.

For further guidance on filing returns, please see the Spanish tax authorities' [website](#).

In any case, we recommend that you check your VAT obligations with a local qualified professional.