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*Wealth Tax Commission*

# Wealth tax: Spain

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# WEALTH TAX: SPAIN

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# 1. Brief history of wealth tax and changes over recent years

Spanish wealth tax (*Impuesto sobre el Patrimonio* - WT) was introduced in 1977[1] as a temporary measure and, in fact, its name was Extraordinary Wealth Tax (*Impuesto Extraordinario sobre el Patrimonio*). However, WT has paradoxically been one of the more stable taxes within the Spanish tax system and the first version of it suffered very few amendments until 1992, when the Wealth Tax Law[2] was enacted (WT Law).[3]

In 2008, WT was abolished by the Socialist Party (*Partido Socialista Obrero Español* – PSOE)[4] with the goal of halting the economic slowdown Spain was suffering at that time. According to government information[5], the measure benefited approximately one million taxpayers, who ceased to pay the tax, and resulted in a tax saving of 1,800 million euros.

However, WT was reintroduced from 2011[6], once again by the Socialist Party and, in theory, again only temporarily for 2011 and 2012, based on the argument that the tax was a necessary measure to enhance the economic recovery of the country and specifically to make those individuals with more economic capacity contribute towards the economic crisis. After its reintroduction, WT was said to impact 160,000 individuals and to collect approximately 1,080 million euros[7].

This supposed transitory reintroduction of WT has ended up in annual extensions of the tax, which continue to be in force today.

In overall design WT has been a relatively stable tax. From 2002, the exempt minimum (a personal allowance granted to all taxpayers) was 108,182.18 euros. However, with the reintroduction of WT in 2011, the minimum exempt threshold was increased to 700,000 euros (see below).

WT is currently raising approximately 1,100 million euros in annual revenue. Official statistics can be found at the official website of the Spanish tax uuthority (*Agencia Estatal de Administración Tributaria*)[8]. The website splits the total tax quote achieved between the different autonomous communities (*Comunidades Autónomas*).

WT is regarded as an unfair tax by a number of citizens, as they perceive it as double taxation on the proceeds of their work and effort, which have already been taxed. In addition, the existence of WT is said to prevent many foreign people from coming to live permanently in Spain (except to Madrid, where WT is currently not levied, which makes this region very attractive from a tax perspective).

Recently, one of the political parties forming part of the current Coalition Government (*Unidas Podemos*) proposed a new tax on wealth, which would be named Fortune Tax (*Impuesto sobre

[1] Law 50/1977, of 14 November, on urgent measures for a tax reform.
[2] Law 19/1991, of 6 June, on Wealth Tax.
[3] Still in force
[4] Law 4/2008, of 23 December.
[5] https://www.elmundo.es/mundodinero/2008/04/18/economia/1208503131.html
[6] Royal Decree-Law 13/2011, of 16 September.
[7] https://elpais.com/politica/2011/09/15/actualidad/1316117720_459254.html
[8]https://www.agenciatributaria.es/AEAT.internet/datosabiertos/catalogo/hacienda/Estadistica_de_los_declarantes_del_Impuesto_sobre_el_Patrimonio.shtml

*las Grandes Fortunas*) and would replace the current WT. Fortune Tax rates would range from 2% to 3.5%[9] and the tax would include a 1 million euro personal allowance. The aspiration of *Unidas Podemos* is to achieve a revenue up to 1% of gross domestic product, that is to say, up to 11,000 million euros[10] [11]. The view of the majority of scholars and economic experts is that this figure is unlikely to be achieved.

[9] 2% for wealth of more than EUR 1M; 2.5% for wealth in excess of EUR 10M; 3% for wealth in excess of EUR 50M; and 3.5% for wealth in excess of EUR 100M.
[10] https://podemos.info/medida/crear-un-impuesto-para-las-grandes-fortunas-que-grave-los-grandes-patrimonios-con-el-fin-de-recaudar-un-1-del-pib-de-patrimonios-superiores-a-un-millon-de-euros-y-de-forma-progresiva/
[11] https://www.lavanguardia.com/economia/20200512/481123077444/impuesto-podemos-grandes-fortunas.html

# 2. General description of Spanish wealth tax

WT is only levied on individuals' and not on companies' assets. The WT law does not include a specific list of assets which are subject to tax, but rather states that WT will be levied on the total net wealth of the individual. The net wealth of an individual comprises all the assets and economic rights owned by them (i.e. worldwide assets), with deduction of encumbrances that decrease their value as well as all personal debts or obligations. Non-Spanish tax residents are only subject to WT on their Spanish situated assets or rights and can only deduct debts which are taken out in relation to these Spanish assets (see Section 3 below).

Generally speaking, all assets or rights with an economic value are subject to WT (e.g. real estate, financial assets (including treasury bonds), bank deposits, assets used in a business activity, shares in companies, luxury assets, insurances, etc).

The WT law encompasses a personal allowance amounting to 700,000 euros per individual (and the same allowance is applicable to non-Spanish resident taxpayers). This allowance is individual, so each member of a family (including any minors) is able to individually take advantage of it (please see section 3 below with regard to regional differences).

WT law specifically excludes some assets or rights, from the tax base. These include goods included in the Spanish Historical Heritage, certain artworks and antiques (those that are kept by the artist, or which are freely assigned to museums, or that do not trespass certain economic thresholds – for instance, the maximum market value to get the exemption for an artwork is 90,000 euros), intellectual or industrial property owned by their creator, household items with some exceptions (*ajuar doméstico*), rescue rights of pension plans and other insurance policies (linked with a previous work; life insurance policies are not exempt from tax), some fixed rent securities held by non-residents, assets allocated to a business activity and shareholdings in so-called 'family companies' if certain requirements are met (please see Section 7 below).

Also, on top of the 700,000 euro personal allowance, the main home is partially exempt (up to 300,000 euros per individual, not applicable to non-residents). **Therefore, taking into account the exempt threshold and the relief on the main home, a couple can benefit from a total 2,000,000 euro exemption (please see section 3 below with regard to regional differences).**

Assets and rights are valued on 31 December every year. With certain exceptions, if an asset is disposed of before the end of the year it does not need to be included in the WT form of the seller or donor corresponding to that year, but rather, on that of the buyer or donee. However, the WT law includes a presumption that taxpayers continue being the owners of a relevant asset unless they are able to prove its sale or loss.

WT is levied individually and not on the family as a whole. Assets are distributed between the members of the couple in accordance with the marriage regime rules. Minors are subject to tax as well. In this regard, the Spanish WT law does not incorporate specific anti-fragmentation rules.

Trusts are not recognised under Spanish laws and are disregarded for tax purposes. Consequently, the settlor or the beneficiary of the trust, depending on the concrete circumstances of the trust deed, will be subject to WT as if they directly owned the relevant trust assets. A general rule that can be extracted from the rulings issued by the General Directorate of Taxes (*Dirección General de Tributos* - body in charge of construing the Spanish tax laws) is that if the trust assets pass to the beneficiaries only upon the settlor's death, then the settlor is subject to WT. Assuming that the settlor is a non-Spanish tax resident, there would then be WT while the settlor is alive only on the trust assets located in Spain. However, if based on the provisions of the trust deed it can be inferred that the beneficiaries get title to or faculties over the trust assets earlier than this, a gift may be understood to take place and the beneficiaries would be the ones liable to WT on a yearly basis.

# 3. Territoriality

## 3.1 Territoriality issues within the Spanish territory: different rules among the Spanish regions (*Comunidades Autónomas*)

Even though WT is a central (*estatal*) tax, the entire revenue resulting from it is assigned to the different regions (*Comunidades Autónomas*), that are also entitled to pass their own rules concerning the following aspects:

a) Exempt minimum (*mínimo exento*), a personal and individual allowance applicable to all taxpayers;

b) Tax rates (*tipo de gravamen*); and

c) Tax deductions to the base (*deducciones y bonificaciones a la cuota*).

The scope and conditions of the assignment to each region (*Comunidad Autónoma*) is specified in the relevant *vis-à-vis* law. Regions may or may not use the option of enacting their own rules. If there are no specific regional rules enacted, the relevant region in default applies the national law (the WT Law).

Whilst some of the regions have, for example, increased the applicable tax rates compared to those contained in the national WT law (please see section 5 below for more detail), others have done the opposite (La Rioja, for instance, contemplates a 75% tax reduction). Madrid is the only region that has a 100% tax deduction. Needless to say, this fact makes Madrid the most tax attractive region in which to live. Basque Country and Navarra each have their own rules.

Some regions have amended the personal allowance, decreasing its amount. For example, the individual allowance in Catalonia is only 500,000 euros.

These differences between regions have also had an impact on the Inheritance and Gift Tax (**IGT**), as some of them (like Madrid) include tax deductions that, under certain circumstances, almost eliminate the tax to be paid. IGT may be of the upmost importance depending on the wealth that passes on to the heirs (*vid.* Section 8 below).

## 3.2 Wealth tax for non-Spanish tax resident individuals

According to the WT law, non-Spanish tax resident individuals are subject to WT only on assets located within Spanish territory or, on rights that may be exercised or have to be fulfilled in Spain. Spanish tax resident individuals are subject to WT on their worldwide assets. However, national rates apply to non-resident individuals which means that even if they have their Spanish assets located in a region with low or no wealth tax rates such as Madrid then they will still have to pay at the national rates.

The assets typically subject to WT for non-Spanish tax residents are real estate and shares in Spanish companies or bank accounts. Some of the conventions for the avoidance of double taxation in Spain include a section concerning WT that usually allows Spain to tax real estate assets located in Spain (directly or indirectly owned (via a company)), or assets allocated to a permanent establishment within the Spanish territory. Where a tax treaty is applicable, Spanish bank accounts or shares in Spanish companies not primarily holding Spanish real estate are usually excluded from taxation.

Shareholdings in non-Spanish companies are in principle excluded from WT, even if via those foreign companies the individual holds Spanish assets (basically, real estate). However, in certain circumstances a different view has been taken by the Spanish General Directorate of Taxes (*Dirección General de Tributos* - body in charge of construing the Spanish tax laws), based on the wording included in some conventions for the avoidance of double taxation entered into by Spain, such as the UK or the German tax treaties.

Non-Spanish tax resident individuals can only deduct debts if the capital is invested in Spanish assets that are not exempt from WT. Contrary to the understanding of some scholars and practitioners, our impression is that a debt can be deductible even if incurred with a non-Spanish bank and regardless of the question of whether it is secured on Spanish assets (typically, real estate). The finance needs to be taken previously or simultaneously to the acquisition of the relevant asset and needs to be clearly linked with it. The debt tax deduction requirements are less strict for Spanish tax residents (this is logical as they are subject to tax on their worldwide assets).

Non-Spanish tax residents cannot benefit from the exemption of the main home (please see Section 3 below) or apply the limitation rule set forth below under Section 5.2.

Some argue that non-Spanish tax residents should be able to apply the rules of the particular region where the greater part of their wealth in Spain is situated rather than being subject to wealth tax on a national basis. That would result, for example, in no tax being payable if the assets of the non-resident were mainly located in Madrid.

Non-resident individuals who become resident for tax purposes in Spain are subject to tax from the first year they meet the requirements necessary to be considered as a Spanish tax resident. In this regard, pursuant to the Spanish personal income tax law (**PIT** and **PIT Law**)[12], to which the WT law refers, an individual is considered to be resident in Spain for tax purposes if:

a) He or she remains within the Spanish territory more than 183 days during the relevant calendar year or;

b) The main centre or base of their activities or economic interest is located in Spain, directly or indirectly.

c) In addition, under a legal presumption, the PIT law states that an individual will be a resident in Spain for tax purposes, unless evidence is given on the contrary, if their spouse and dependent children are tax residents in Spain on the basis of the criteria referred to in a) and b) above.

However, individuals who are treaty non-resident elsewhere are not Spanish residents for wealth tax purposes. Individuals who obtain Spanish tax residency under the so-called 'Beckham Law Regime' are taxed as non-resident taxpayers (that is to say, only on their Spanish assets) from the first year they meet the requirements to be considered as Spanish tax residents and for the following five years (i.e. six years in total). The so-called 'Beckham Law Regime' is quite strict and requires genuine work to be performed by the individual or a board position appointment in a company that is not controlled by them. In other words, the Spanish inpats regime is not conceived as a regime for wealthy individuals who want to live in the country and not work there, but rather, for qualified workers or directors. There must be a relation of causality between the new job or director appointment and the move to Spain.

[12] Law 35/2006, of 28th November.

On another front, from 2015 onwards, if an individual leaves the country there is a sort of exit tax for PIT purposes, which is calculated by difference between the fair market value of any shares, listed or not, or interests in investment funds and their acquisition cost. The tax rate to be applied to the potential gain on those assets ranges from 19% to 23%. There are however some requirements for this exit tax to apply. The individual needs to have been a Spanish tax resident during at least ten of the 15 years preceding the exit and there are some thresholds under which the tax does not accrue. However, there is no exit tax for WT purposes.

# 4. Taxable base: valuation criteria

The WT law contains certain valuation criteria, the most relevant of which are as follows:

a) Real estate: these are valued at the higher of the three following values; a) acquisition value; b) cadastral value (*valor catastral* – an administrative value which tends to be in most of the cases lower than the acquisition value); or c) value assessed by the tax authorities in the context of a tax proceeding.

b) Assets or rights allocated to a business activity: these are valued at the figure resulting from the accounting books. If there is no accounting, the assets or rights are valued pursuant to the applicable specific rules depending on their nature.

c) Bank deposits: these are declared at the higher amount between a) the bank balance as at 31 December and; b) the average bank balance of the last quarter.

d) Listed obligations or bonds: the valuation criterion is the average listing price of the last quarter.

e) Loans or non-listed credit rights: these are considered at their nominal value, without taking into account accrued interest.

f) Listed shares: these are valued at the average listing price of the last quarter.

g) Non-listed shares: two different possibilities exist:

    - If the relevant company has been audited and the audit report has been unqualified, the value taken is the net book value of the shares, without taking into consideration the other criteria set out below.

    - If the company has not been audited or if the audit report has not been unqualified, the value to take into account is the higher of the three following values; a) share capital; b) net book value; or c) the amount resulting from capitalising at 20% the average of the profits derived from the last three years.

h) Consequently, if the taxpayer voluntarily arranges for an audit report of the company and the report is positive, the value to be declared will be the net book value of the shares, even if with the criteria under c) above the value would have been higher.

i) Life insurance: the value for WT purposes is the surrender value.

j) Jewellery and means of transport: the valuation criterion is the market value (there is an official list issued by the administration that can be used to get the valuation of some means of transport).

k) Artworks and antiques (if not exempt): they are valued at their market value.

l) Residual rule to be applied to non-explicitly included assets or rights: market value.

m) Debts: debts are considered at their face value, so principal but not interest is tax deductible. In order to be tax deductible, debts must be properly evidenced. The annual PIT (personal income tax) estimate is considered a debt and therefore is tax deductible for Spanish tax resident taxpayers against the wealth tax. On the other hand, non-resident taxpayers can only deduct debts if the capital is invested in Spanish source assets which are not tax exempt (please see Section 3.2 above). They cannot deduct any Spanish personal income tax due against the wealth tax liability.

# 5. Tax scale and tax quote: example of quote to be paid

## 5.1 Tax scale

WT is levied on the basis of a progressive sliding scale, which is not related to the income obtained by the taxpayer.

The general tax scale included in the WT law, applicable if the relevant region has not passed its own tax rates, and also by non-Spanish tax residents, is as follows:

| Taxable base (€) | Tax quote (€) | Excess of taxable base | Tax rate (%) |
|---|---|---|---|
| *0.00* | *0.00* | *167,129.45* | *0.20* |
| *167,129.45* | *334.26* | *167,123.43* | *0.30* |
| *334,252.88* | *835.63* | *334,246.87* | *0.50* |
| *668,499.75* | *2,506.86* | *668,499.76* | *0.90* |
| *1,336,999.51* | *8,523.36* | *1,336,999.50* | *1.30* |
| *2,673,999.01* | *25,904.35* | *2,673,999.02* | *1.70* |
| *5,347,998.03* | *71,362.33* | *5,347,998.03* | *2.10* |
| *10,695,996.06* | *183,670.29* | *Excess* | *2.50* |

Some regions have passed their own scales, for example; Andalucía, Asturias, Baleares, Cantabria, Cataluña, Extremadura, Región de Murcia or Comunidad Valenciana. All these specific tax scales are higher than that included in the WT law.

As an example of an increased tax scale, Balearic Islands has approved the following thresholds and rates:

| Taxable base (€) | Tax quote (€) | Excess of taxable base | Tax rate (%) |
|---|---|---|---|
| *0.00* | *0.00* | *170,472.04* | *0.28* |
| *170,472.04* | *477.32* | *170,465.00* | *0.41* |
| *340,937.04* | *1,176.23* | *340,932.71* | *0.69* |
| *681,869.75* | *3,528.67* | *654,869.76* | *1.24* |
| *1,336,739.51* | *11,649.06* | *1,390,739.49* | *1.79* |
| *2,727,479.00* | *36,543.30* | *2,727,479.00* | *2.35* |
| *5,454,958.00* | *100,639.06* | *5,454,957.99* | *2.90* |
| *10,909,915.99* | *258,832.84* | *Excess* | *3.45* |

Extremadura, for instance, imposes rates of 3.75% in the upper tranche.

## 5.2 Tax deductions and limitation of wealth tax paid

The WT law provides for the deduction of any wealth taxes paid in third countries, with a limit corresponding to the average tax rate based on the Spanish rules applied to the value of the relevant foreign asset.

Furthermore, the regions are entitled to approve their own deductions and many of them have made use of this facility. Please see section 3 above in regard to the 100% deduction that is applied in Madrid.

In order to deal with liquidity concerns, the WT law determines that the total of the WT tax assessment, the PIT tax assessment (general taxable base - basically comprising employment, business activity or rental income) and the savings tax assessment (primarily including financial income) cannot exceed 60% of the value resulting from the total of the two personal income tax bases (general taxable base and savings taxable base – the sum of which results in the total taxpayer income). This means that the WT tax due can, to a certain extent, be controlled by regulating the income flow that is received by Spanish tax resident individuals. For the purposes of this limitation, capital gains derived from assets held by the taxpayer for more than a year are excluded from the savings taxable base and also from the amount used to calculate the 60% cap. This relief is not applicable to non-residents.

Only 80% of the WT may be reduced (20% of WT due is always subject to tax whatever the level of income).

This limitation rule obviously has a less favourable result for those individuals who, on top of having substantial wealth, derive a high annual salary or income over which they have little control (e.g. executive directors or professionals with a high turnover). For example, an individual earning an annual salary of 1 million euros and having a wealth of 10 million euros would pay around 130,000 euros in annual WT (based on the general rules). However, an individual with the same wealth but with no or little income (e.g. because it can be controlled by the flow of dividends from a company) would only pay around 42,500 euros[13].

Non-productive assets such as cars, jewellery, boats or works of art are not eligible to benefit from the limitation of wealth tax and are consequently fully liable to tax.

Charitable gifts are not deductible from WT.

## 5.3. Examples

### Example 1

Individual owns two houses each worth net:

a) €500,000,
b) €1 million,
c) €2 million,
d) €10 million,
e) €20 million.

[13] These are only rough figures not based on exact tax rates and their only purpose is to show the different treatment depending on the income that is obtained by the taxpayer.

On the basis of the WT law (that is to say, without taking into consideration regional rules that may result in a higher tax), the tax quotes would be the following:

a) €732.87;
b) €8,190.36;
c) €36,546.37;
d) €398,770.39; and
e) €898,770.39.

For a Spanish tax resident individual, if one of the houses is the habitual home, then 300,000 euros would not be included in the taxable base (in scenario (a)that would mean that no WT would accrue). Also, depending on the individual's income and due to the application of the limitation rule, the WT quote could be reduced in an 80% (only 20% would be subject to tax). The main home should not be eligible to benefit from the limitation of the quotes rule.

### Example 2

As above but the individual is married and assets split between the two of them:

a) €0;
b) €1,465.74;
c) €16,380.72;
d) €308,708.74; and
e) €797,540.78.

The comments under (1) above are applicable.

### Example 3

Individual owns private trading company shares of:

a) €500,000,
b) €1 million,
c) €2 million,
d) €10 million, and
e) €20 million.

Same as in a) above, unless the exemption on 'family companies' applies. In that case, the tax could even be zero if all the assets of the company are deemed as 'active assets'. Trading activity *per se* (i.e. buying and selling quoted shares) is not deemed as a qualifying business activity for the application of the exemption on 'family companies'.

### Example 4

As in (3) above but company is an investment company.

Same as in (1) above, unless the exemption on "family companies" applies. In that case, the tax could be even zero if all the assets of the company are deemed as "active assets".

### Example 5

As in (3) above but the assets are quoted shares and securities owned by the individual directly.

Same as in (1) above, unless the exemption on 'family companies' applies. In that case, the tax could be even zero if all the assets of the company are deemed as 'active assets'. A listed company can also be deemed as a 'family company' if the requirements are met.

# 6. Tax assessment, collection and inspection

The WT form (*modelo 714*) needs to be self-assessed, filed and paid by the taxpayer by 30 June of every year, referring to wealth in the previous calendar year. The form is independent from the PIT (income tax) form (*modelo 100*) but both documents must be filed on the same date and before the central tax authorities.

On the WT form, all assets, rights and debts need to be separately reported (the form includes different sections, such as real estate, bank accounts, listed shares, debts, etc.). There is no reference to past tax forms filed, so the taxpayer needs to value and include all assets, rights and debts on a yearly basis.

A WT form has to be filed either if there is wealth tax to be paid or whether, even if there is no effective wealth tax to be paid, the value of the assets or rights owned by the taxpayer exceeds 2 million euros (that could be the case, for example, for a taxpayer who is eligible to apply the exemption on shares in 'family companies', the value of which is substantial). There is no maximum asset value or cap above which WT is not paid.

There are no specific rules to defer the payment of the WT assessed, if liquidity concerns still exist even after the various exemptions. Taxpayers may ask for a split of the payment to be made, in practice for no more than twelve months and accruing an interest between 3% and 3.75%. If the wealth tax due is higher than 30,000 euros the taxpayer needs to provide the tax authorities with a guarantee. The only automatic guarantee is a bank guarantee or a guarantee insurance (*Seguro de caución)*. The rest of the potential guarantees need to be expressly accepted by the tax authorities.

Within a four-year time period, the taxpayer can voluntarily amend the tax declaration already submitted, either to include assets that were not previously disclosed (*declaración complementaria*) or to ask for amendment of the tax declaration if too much tax has been paid (*solicitud de rectificación de autoliquidación*). If additional tax needs to be paid, surcharges and interest for late payment are imposed. The maximum surcharge is 20% and this applies where there are delays in payment of more than a year. Interest for late payment only starts to accrue after the first year of delay.

The tax authorities have the facility to initiate a tax enquiry within the same four-year period. Tax inspections are handled by the tax regions, even though in some cases the tax inspectors from the central tax authorities take the opportunity to carry out WT tax enquiries even in the context of tax enquiries related to other taxes such as personal income tax, corporate income tax or non-resident income tax.

# 7. Tax planning and exemption on shares in 'family companies'

Some tax reductions may be achieved by:

a) Controlling, to the extent possible, the income which the taxpayer derives (please see Section 5.2. above);

b) Investing in accumulative financial products, such as investment funds, and only taking profits after one year of holding the investment (please see Section 5.2. above); or

c) Splitting assets within the family members (if this is the case, the IGT implications may be analysed in advance – please see Section 8 below).

Another important exemption, due to the prevalence in the Spanish economy of small and medium size companies, it is worth briefly explaining the exemption on shares of such companies. This is one of the more time consuming aspects of completing the return but very important as it also determines access to IGT exemption. In order to apply, the following criteria must be met:

a) The taxpayer must own at least 5% of the share capital of the relevant company (or 20% thereof together with their spouse, parents, children or siblings).

b) The taxpayer must effectively manage the company and must receive a remuneration for that task that represents more than 50% of total income deriving from any business, professional activity or labour relationship. If the ownership in the company is joint with their spouse, parents, children or siblings, then this requirement may be fulfilled by any member of this group.

c) The company (and its subsidiaries, if any) must carry out an active business or trading company activity. Holding companies may be deemed to be active for these purposes if they hold at least 5% of the share capital of the subsidiaries, they have the means to manage the shareholdings and the subsidiaries are engaged in an active business activity.

If the exemption on shares in 'family companies' applies, the value of the shares receives a 95% reduction for IGT purposes too (please see Section 8 below).

There is no specific anti-abuse rule targeted to WT, except for the presumption that the taxpayer continues to be the owner of a relevant asset, unless it is proven that it has been transferred or lost.

# 8. Inheritance and gift tax (IGT): brief notes

Spanish tax resident individuals are subject to IGT on a world-wide basis (that is to say, on all assets and rights acquired, regardless of where they are located). By contrast, non-Spanish tax resident individuals are subject to IGT on inherited assets or goods which are located in Spain, or on rights which may be exercised in Spain or have to be fulfilled within the Spanish territory, as the case may be.

Generally speaking, the taxable base of IGT coincides with the fair market value of the acquired assets and rights, and debts, charges and encumbrances may be deducted from the value of the assets and rights if they are taken on by the heirs.

Moreover, certain small reductions may be applied to the taxable base depending on the relationship of the beneficiary with the deceased.

Specific mention needs to be made to the so-called ‘family companies’: 95% of the ‘family company’s’ value may be exempt from IGT if the shares have been exempt from WT. The applicability of the exemption for ‘family companies’ for WT purposes is therefore of the upmost importance in enabling subsequent exemption of IGT.

The tax rates set forth by the IGT law vary from 7.65% to 34%, depending on the value of the assets and rights received. Some regions have applied their own tax scale that is higher than the central one. For example, in the Balearic Islands legislation the maximum tax rate is 20%.

The rate of IGT is increased by a certain percentage depending on the family relationship between the deceased and the recipient (the maximum coefficient for children and spouses is 1.2 and is applicable if the recipient has an existing estate of more than 4 million euros).

As with WT, the autonomous communities (*comunidades autónomas*) are entitled to pass their own rules concerning some aspects of IGT.  For example, Madrid provides for a tax deduction that reduces almost totally the IGT payable if the heirs are the descendants or the spouse of the deceased.