

# Spanish tax resident or tax non-resident?

Most people think that they can stay in Spain for up to 183 days a year before they have to pay tax to Spain as a tax resident, but other factors are also important when considering whether one is tax resident or tax non-resident to Spain.

## Tax resident or tax non-resident

When people in Scandinavia talk about full or limited tax liability, in Spain we talk about tax non-resident and tax resident (*residente fiscal*).

If you have been granted *residencia* it means that you have been granted a residence permit, but this is not the same as becoming or being a tax resident.

The public authority regarding tax residence is *agencia tributaria*, which often simply is abbreviated AEAT.

## Either / or for the entire tax year

The tax residency is determined only after the end of the tax year, and it then applies to the entire past tax year.

This means that you cannot be a tax resident for part of the year and a tax non-resident for the rest of the year.

This is very different from Scandinavian countries, where tax residency can occur and apply from one day to the next.

## Habitual residence

There is tax residency in Spain for persons having their habitual residence, *residencia habitual*, in Spain.

There is a habitual residence in Spain where only one of the following two conditions is met:

- Stay for more than 183 days.
- When the center or base of activities or economic interests is located directly or indirectly in Spain.

In addition, there is a presumption of habitual residence when a spouse or minor children live in Spain.

## Stay for more than 183 days

It is not a condition that the stay takes place in a continuous period, but it must be within one and the same tax year.

Occasional absences from Spain are included as stays in Spain, unless these absences prove that you are tax resident in another country.

## Special tax scheme (Beckham)

The Spanish special tax scheme with attractively low taxation is called by many the Beckham law, as it was introduced at the time football player David Beckham moved to Real Madrid.

Now, however, athletes can no longer use this tax scheme, but so can anyone else who moves to Spain to work.

Contact us for more information.

## Center or base of activities or economic interests

In the absence of a more precise description of when the center or base of activities or economic interests is located directly or indirectly in Spain, this has been interpreted as:

- The place where you have most of your investments concentrated.
- The place from where one's business is carried out.
- The place from which one manages his assets.
- The place from which one receives the majority of his income.

## Relocation situation (moving to Spain)

As described earlier, you cannot be both a tax resident and a tax non-resident during a tax year, and as a consequence there are also no places where you register for tax residency on the date of moving to Spain.

Tax registration is done instead by submitting a Spanish tax return as a tax resident for the tax year in which you have become a tax resident.

For example, if you move to Spain during the second half of the year 2021, you will typically continue to be a tax non-resident until 31.12.2021 and therefore only register as a tax resident for the year 2022 via the submission of the Spanish tax return during 2023.

## Relocation situation (moving from Spain)

When you are a tax resident and considering moving out of Spain, there will often be the important difference, compared to the relocation situation when moving to Spain, that you may have the opportunity to get some already paid amounts back from the Spanish tax office, which is certainly more difficult to succeed with than to discuss whether you have become a tax resident and must pay as a result of moving.

If, for example, you leave Spain in the first half of 2021, your employer will have withheld and paid Spanish tax

## Digital certificate

With a digital certificate you, or your Spanish advisor, can send and receive digital mail to the Spanish public authorities.

This will make it easier for you to ensure that notifications from the Spanish tax authorities will not remain unread in an empty mailbox on your property in Spain.

on wages in the period from 01.01.2021 in accordance with the rules for tax residents, but since the tax residency is "either or" for the entire tax year, in this situation you will be a tax non-resident as from 01.01.2021 and thus only have to be taxed according to the rules for tax non-residents.

## Documentation, documentation...

It is important to note that formalities are given a much greater importance in Spain than is the case in Scandinavian countries and often at a level Scandinavian people find ridiculous.

The point of departure is therefore that everything in Spain is difficult and that you start uphill.

One should therefore carefully consider which documentation will provide proof that one is a tax resident or a tax non-resident and then provide and keep this, should it later become necessary to be able to present it.

For example, when moving from Spain to Denmark it would be a good idea to submit a form 030 in Spain and at the same time obtain a signed and stamped registration form from the Danish tax office.

## The language of Spain is Spanish!

This means that all documentation must be in Spanish. Do not expect English to be sufficient.

Read more about Spanish tax on our website.