TRENDING NOW

ANDALUSIA IS GAINING MOMENTUM AS AN ATTRACTION POLE FOR INTERNATIONAL INVESTORS AND HIGH-SKILLED WORKERS

The Spanish Government adopted in the early 2000's a series of legislative measures aimed at attracting international investors and high-skilled workers. While the investor visa program (golden visa) grants residence permits to those individuals making a significant capital investment in Spain, the special tax regime for transferred employees allows individuals who acquire their tax residence in Spain by virtue of an employment contract to be taxed as non-residents at a flat rate of 24% up to EUR 600,000. This non-dom-like regime applies in the tax year in which the change of residence takes place and in the following five years and competes on an equal footing with other preferential regimes existing in neighboring countries such as Portugal or Italy.

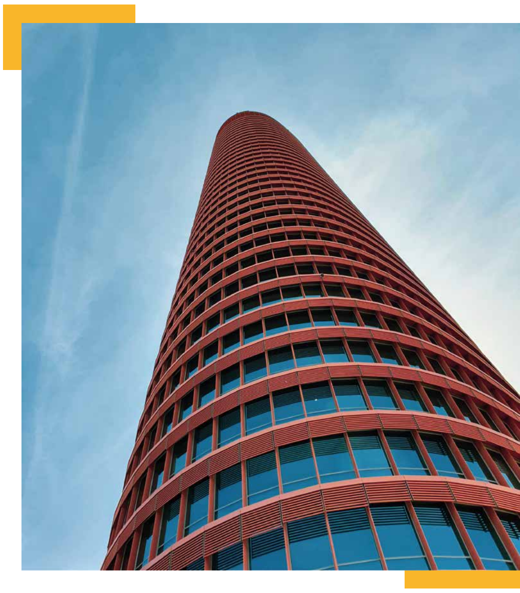
For ordinary tax residents—those governed by the general regime—the autonomous region of Andalucia has taken a significant step towards increasing households' disposable income, easing foreign investment, and attracting international talent.

The Government of Andalusia is fully aware of its region's potential, which is why they intend to become one of the leading destinations for investors, employees, and companies worldwide. The favorable weather conditions, the gastronomy, and the myriad of high-standing residential areas—Málaga, Marbella, and Sotogrande, among others—are reasons why many individuals have decided to change their permanent residence to Andalusia.

To do so, the regional Government announced in September the abolition of the net wealth tax (implemented for legal reasons through a 100% allowance) together with other tax cuts, such as the deflation of the personal income tax rates and the temporary abolition of the water tax (a consumption tax on water for urban use addressed to the financing of water infrastructures). These new tax actions will enter into force in 2022 (net wealth tax abolition) and 2023 (water tax abolition).

These measures have been overshadowed, though, by the recent announcement of the Spanish Government on the creation a solidarity tax on large fortunes (over EUR 3 million) with a nationwide scope probably for 2023. Whereas the draft bill has not yet been submitted for parliamentary discussion and, therefore, no critical analysis can be made, the intended configuration of the tax raises legal concerns (encroachment of regions' competencies and the confiscatory nature of the tax). Consequently, it will be the subject of litigation before the courts.

Non-liquidating distributions paid by the US Blocker to its non-US shareholder are taxable as dividends (subject to 30% withholding tax) to the shareholder to the extent of the earnings and profits of the US corporation. If the non-liquidating distributions exceed the US corporation's earnings and profits, such distributions are treated as a non-taxable return of capital to the extent of the shareholder's tax basis. A non-liquidating distribution in excess of shareholder's basis is taxed as a gain from the sale or exchange of the US corporation's shares.



In short, Andalusia's decision to follow in Madrid's footsteps by abolishing the net wealth tax will surely position Andalusia as one of the preferred territories to live and invest in Spain.

The regimes at a glance
Investor Visa requirements

- Financial investment: EUR 2 million in Spanish public debt securities; EUR 1 million in Spanish companies or in investment funds, closed-end investment funds, or venture capital funds incorporated in Spain; or EUR 1 million in bank deposits in Spanish financial institutions.

- Real estate investment: acquisition of real estate located in Spain through an investment value equal to or greater than EUR 500,000 per applicant. Only the excess part of the minimum investment (over EUR 500,000) may be subject to liens and encumbrances.

- Business project: a business project to be carried out in Spain that is deemed and proved to be of general interest. A business project will be considered of public interest if at least one of the following requirements is met: (i) creation of jobs; (ii) having a relevant socio-economic impact in the geographical area in in wich activity will be carried out; (iii) be a significant contribution to scientific and technological innovation.

Special tax regime for transferred employees

- Requirements: (i) the transferred employee has not been resident for tax purposes in Spain at any time during the ten years before the transfer; (ii) transfer occurs as a result of an employment contract or appointment as a company director; and (iii) the income is not obtained through an employee's permanent establishment located in Spain.

- Content and duration of the regime: individuals qualifying for the application of this regime may exercise the option to be taxed as non-resident individuals. Work income obtained in Spain will be taxed at a flat rate of 24% (47% over EUR 600,000), whereas savings income will be taxed from 19% to 26%. This regime applies in the tax year when the change of residence takes place and in the following five years.

The current law on start-ups improves this regime's content and will probably be enacted by the end of end-2022.

CASES & LACAMBRA