Forbes Dawson
THE TAX SPECIALISTS

Spain

Summary

Spain does not generally have favourable tax rates and in fact, the ordinary tax position of an individual resident in Spain would be no better than one living in the UK.

However, during the financial crisis, Spain reinstated an original regime called the ‘Beckham Law’. Named after David Beckham, it was put in place to attract foreign workers to Spain, due the beneficial rates attributed to Spanish employment income under this regime.

Beckham Law

The above regime was designed to attract talented, wealthy individuals to become resident in Spain. The basis of the regime is to treat the individual as if they were non-Spanish resident for tax, despite their actual physical residence. This means lower income tax rates and exemptions from tax on foreign income and foreign gains for up to six years.

Obtaining tax residency

To benefit from the alternative income tax rates, an individual;

- Must not have been Spanish resident in the last 10 years.
- Must be employed by a Spanish company, or non-Spanish company but which has a permanent office in Spain. (The individual can be a director of the company but must not hold more than 25% of the shares).
- Must make an application within six months from starting employment in Spain.
- Must have at least 85% of their work interests in Spain.

The rule is applicable for the remaining part of the tax year that an individual starts their employment in Spain and the five years that follow.

Basis of tax

The Spanish employment income would only be liable to income tax at rates of 24%, rather than 45%. This favourable rate applies to income up to €600,000, after which it increases to 45%.

Any foreign source income received from a country which has a Double Tax Agreement with Spain, will be free of tax in Spain.

No capital gains tax will be charged on gains made outside Spain.

The rate of tax applicable to income and gains arising on Spanish assets ranges between 19% - 23%.

Wealth taxes will arise on Spanish assets held.

An understanding of the Double Tax Agreement in place between the two countries (Spain and the source of the income/gains) is essential to mitigate taxes. The source country may be able to tax the income, which may mean this regime is not so favourable.

After six-year period

At the end of the six-year period of this regime, the normal Spanish tax rates that apply to Spanish residents will come into force. Spanish residents are taxed on a worldwide basis.

The disposal of foreign assets will become subject to capital gains tax at progressive rates between 19% and 23%.

Dividends, rental income and interest are liable to tax rates of 19%-23%. Employment income is taxable at progressive rates up to 45%.

Wealth taxes will then apply to the value of worldwide assets held.

In addition to the state taxes above, the regions also impose additional taxes on their residents.

There are some advantages for high net worth clients in setting up their own investment companies where low tax rate can apply.

Gift and inheritance tax

Spanish gift tax is on the beneficiaries of a gift, not at the estate or donor level. Therefore, the residence of the individual makes little difference to the tax treatment of any gift he/she makes.

The rate of tax is determined by the relationship to the donor with lower rates applicable to closer relations.

For non-residents on receipt of a gift, this is only chargeable to gift taxes in Spain, if it is a gift of a Spanish situs asset i.e. land and buildings.

For Spanish residents receiving a gift, the gift taxes apply on worldwide assets.

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