

BUYING AND SELLING A PROPERTY IN SPAIN

What are the costs and taxes involved in buying, owning and selling a property in Spain?



Additional one-off costs on purchase and sale

When buying real estate, the tax authorities naturally also hold out their hand and demand that the buyer pay the real estate transfer tax, known in Spain as **Impuesto sobre Transmisiones Patrimoniales (I.T.P.)**, after the purchase contract has been notarised (Escritura de Compraventa). In the Comunidad Valencia, the land transfer tax is currently 10% for both second-hand properties and new buildings and is financially the largest chunk of the additional costs of buying a property in Spain. The basis of calculation is the certified purchase price. If the **statutory minimum taxable value (valor de referencia)** of the property is higher than the notarised purchase price, then the minimum taxable value should be applied. This is because the tax office can still demand a financial supplement plus interest within four years. The real estate transfer tax must be paid within one month after the notarial certification in

the self-assessment procedure (autoliquidación) with the tax model 600.

In addition to the land transfer tax, the buyer must pay further costs. These are, for example, notary and land registry costs as well as consulting and handling costs by a lawyer or a so-called Gestoría (handling office).

The total additional costs that are incurred once when purchasing a property in the Comunidad Valencia are approximately between 12% and 14% of the purchase price.

Our tip: As soon as you have concluded the notarised purchase contract (Escritura de Compraventa), it is highly recommended that you immediately register your rights as the new owner in the land register (Registro de la Propiedad). This protects you from the seller selling the property more than once.

The tax authorities also earn money from the seller. The profit from the sale of real estate is taxable in Spain. If the seller is a non-resident, the buyer must undertake to withhold 3% of the notarised purchase price (retención) and pay it to the tax office on behalf of the seller as an advance payment on the anticipated profit tax. The tax is

paid using tax model 211 and the payment deadline is one month after the notarisation of the purchase contract.

Subsequently, if the capital gain is higher than the 3% advance tax payment, the seller must declare the profit tax and pay the shortfall within 4 months after the notarisation of the purchase contract.

The calculated capital gain (difference between the acquisition value and the transfer value) is taxed at 19% for EU citizens. If the seller has not made a profit or has made a profit lower than the 3% tax advance (retención), he can claim a refund of the tax.

Important note: However, the seller can still save taxes. There are certain costs that are added to the purchase price on the one hand and deducted from the sales price on the other, which reduce your profit and thus your tax burden. These include, for example, notary's fees, land transfer tax and costs for land registration as well as estate agent's commission and investment in the property and consultancy and handling costs. However, these costs can only be taken into account in the profit tax if the applicant can produce the corresponding invoices.

In addition to the profit tax, a seller owes the notorious **Plusvalía** (capital gains tax). In Spain, the official name is **Impuesto sobre el Incremento de Valor de los Terrenos de Naturaleza Urbana (IIVTNU)**, which is levied by the municipalities. The increase in value of land between purchase and sale is taxed. The tax liability of the Plusvalía must be paid within 30 days. Although the seller has to pay the Plusvalía, the buyer deducts this tax payment from the purchase price if the seller is a non-resident in Spain.

In most cases there is also an agent's commission on the sale of the property, which in Spain is generally only borne by the seller.

Ongoing tax obligations after the purchase of real estate

However, the Spanish tax office does not only hold out its hand at the time of purchase, but regular taxes must also be paid after the purchase of the property. One of these is the property tax, known in Spanish as **IBI (Impuesto sobre Bienes Inmuebles)**. Everyone who owns a property in Spain is asked to pay once a year by the municipality. In the province of Alicante this is better known as SUMA (Tax Administration Agency).

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The amount of property tax is calculated on the basis of the cadastral value and is set individually by the local municipality. The tax administration authority SUMA is also responsible for the refuse collection fee. The annual costs for waste disposal in Spain vary depending on the municipality.

Every non-resident who owns a property in Spain is also obliged to file a **non-resident tax return (Impuesto sobre la Renta de no Residentes)**, even if they do not earn any income from the property. The fictitious self-use value of the second home is taxed as income. A separate tax return must be filed for each property and for each owner using the **self-assessment procedure (autoliquidación)** with tax model 210. The tax rate for EU citizens is currently 19% on 2% of the cadastral value (valor catastral), provided that the last revision was more than 10 years ago, otherwise 1.1% applies.

If the property is rented out, the co-income must be taxed quarterly in the same year, i.e. immediately after the quarter in which the property was rented out, at the current rate of 19% for EU citizens. The amount to be taxed (net profit) is the sum of the

rental income minus the deductible expenses (direct costs to be borne by the owner). These could be, for example, expenses for ancillary costs such as water and electricity or the costs for property tax (IBI) and communal costs as well as the costs for the rent.

Private pre-contract of sale

Once a price has been agreed, the first step in Spain is to sign a pre-contract in private before signing the final deed of sale at the notary. The following points should be included in the pre-contract for the purchase of a property: contracting parties, exact description of the property, agreed purchase price and payment modalities, deadline until the notary date and compensation clause in case of withdrawal. The preliminary contract of sale is legally binding and the contractual conditions agreed in it can be enforced in court in the event of non-fulfilment. When signing this pre-contract, it is customary in Spain to make a down payment of 10% of the agreed purchase price. The final payment is usually made with a bank-confirmed cheque when the final purchase contract is notarised (transfer of possession).

Our tip before buying a property:

To protect oneself from unpleasant surprises, property buyers should have

all the important documents carefully checked by an expert before buying. One of the most important documents is the extract from the land register (nota simple). This provides clarity about the ownership structure and whether the property is encumbered with a mortgage or other rights in rem. The obligatory **energy certificate (certificado de eficiencia energética)** and the **certificate of habitability (cédula de habitabilidad)** are also indispensable. Since 2014, all properties sold in Spain are required to have an energy certificate. The certificate of habitability is required for the change of electricity and water. Other important documents in connection with the purchase of a property are the notarial deed of sale (escritura de compraventa) and proof of payment of the last property tax (IBI) and refuse collection from SUMA. The last electricity and water bills should also be included. If the property belongs to a community of owners (Comunidad), a certificate from the community of owners that there are no debts should be available at the latest at the notary's appointment.

Tax representative (representante fiscal) in Spain

In Spain, non-residents are obliged to appoint a tax representative in Spain, especially when buying or selling a property. **Tax representation** in Spain is very important for non-residents in order to avoid important notifications from the Spanish tax office with possible deadlines being ignored in the letterbox during the period of absence. A lack of tax representation can have serious consequences.

We offer professional advice and competent handling of all legal and tax formalities of your property purchase or sale. We serve you on the whole Costa Blanca, from Denia to Pilar de la Horadada.



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