



# LEGAL NEWS

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## HOLIDAY PROPERTIES - TAXES & INHERITANCE: ITALY, SPAIN & TURKEY

### I. INTRODUCTION

The decision to purchase a holiday home is often made on a wave of emotion, with the exuberance of great memories of a beautiful summer holiday. But however enthusiastic you are about the beauty of your home and its area, it is important to also keep an eye on the costs in order to avoid unpleasant surprises later on leading to “buyer’s remorse”. These start with the ancillary costs of the actual purchase and can continue until the inheritance tax in the case of an inheritance.

In the following article, we review the costs you need to take into account for Italy, Spain and Turkey as they occur on the purchase of the property, during its ongoing use, on its sale or transfer as a gift, or even in the event of inheritance.

### II. ITALY

#### 1. WHAT COSTS DO YOU INCUR WHEN PURCHASING A HOLIDAY HOME?

From the point of view of the buyer, essentially the following cost items must be taken into account:

**Notary:** The fees for the notarial deed are based on the value of the property as well as its district; as an approximate guideline, you should allow for around € 2,000 – 3,000; if the purchase price is paid via a notary’s escrow account, additional fees will also be incurred for this, which (depending on the amount involved) can range from roughly € 500 to 1,000.

**Agent’s fees:** approx. 3% of the purchase price.

**Purchase taxes:** There is the so-called registration tax which is set at 9% of the land register value.

**Other cost items:** In addition, there are various administrative fees which all taken together amount to a few hundred euro, regardless of the value.

If the final purchase contract is preceded by a preliminary contract (which may also need to be notarised), the relevant expert and/or notary fees apply, which can vary greatly from one case to another.

#### 2. WHAT OPERATING COSTS NEED TO BE PAID BY THE OWNER OF A HOLIDAY PROPERTY?

During the ongoing use of the property, in addition to the normal connections for gas, electricity and water which charge by consumption, there is a property tax, plus any regional surcharges or sometimes discounts, that must be paid. The starting point is a tax of 0.76% of the land register value, which can be adjusted up or down by up to 0.3 percentage points by each region, so that the final value ranges from 0.46% to 1.06%.

In addition, there is the municipal waste disposal tax (TARI), which is calculated based on the size of the property and not the number of people in the household.

#### 3. WHAT COSTS ARE INCURRED WHEN SELLING A HOLIDAY HOME?

No specific formal costs are incurred on the sale of the property; the costs for the notarised transfer deed are normally paid by the buyer. However, any capital gains may be subject to income



tax; although the question of actual taxation depends substantially on the country in which the seller is registered as a taxpayer.

#### 4. WHAT COSTS APPLY WHEN MAKING A LIFETIME GIFT?

A deed of gift also has to be prepared by a notary, so that in this case there are also notary fees to be paid, for the amount mentioned above under II.1. In the case of a gift between spouses or to children a gift tax of 4% is incurred on the amount that exceeds the exemption level of € 1,000,000 (based on the land register value). In the case of a gift between siblings, the tax is 6% with a tax-free amount of € 100,000, for other relatives 6% with no tax-free amount and in all other cases 8%, also with no tax-free amount. In addition, there are the so-called “mortgage fee” of 2% and the “land registry fee” of 1%.

#### 5. WHAT COSTS ARE INCURRED IN THE EVENT OF INHERITANCE?

In the event of inheritance, the same tax rates and allowances apply as in the case of the gift. In any case, there may be aspects of international inheritance law that need to be applied to arrive at a precise determination of the rules and taxes on the inheritance.

### III. SPAIN

#### 1. WHAT COSTS DO YOU INCUR WHEN PURCHASING A HOLIDAY HOME?

You can assume that the ancillary purchase costs for the acquisition of property in Spain will total something between 10% and a maximum of 15% of the purchase price. Initially, there are ancillary purchase costs such as notary fees, land registry fees and the costs for any lawyer who may be involved, as well as any incurred for an estate agent. Under statutory regulations, the single notary fee is split between the buyer and seller; the land registry fees are always paid by the buyer. Common practice, however, is that under the contractual agreement the majority (or all) of the notary’s costs are imposed on the buyer.

Notary fees in Spain are calculated according to a mandatory fee table, and usually amount to

between 0.1% and 0.3% of the purchase price shown in the deed. The land registry costs are also based on a fee schedule, and are between 0.1% and 0.2% of the purchase price shown in the deed. Since notaries in Spain have only a limited duty of audit and notification, you are highly recommended to involve a Spanish lawyer who can perform due diligence and prepare the private contract and the subsequent draft of the deed of purchase on behalf of the client. They accompany their client to the notary’s office and also ensure the tax payment and land registry procedures are completed correctly. The lawyer’s fees are usually between 0.5% and 3% of the purchase price. The estate agent’s commission in Spain is usually between 3% and 6% of the agreed purchase price, with as a rule half each being paid by buyer and seller.

However, the largest cost item is the one-time tax, which may apply depending on whether the property is being purchased for the first-time or is a second-hand property. If the buyer acquires the property from a property developer (first-time purchase), it must pay VAT (IVA) of 10% on the purchase price, which is then paid to the Spanish tax authorities by the seller. In addition to VAT, the initial buyer of a new property must pay the stamp duty and notarisational tax (AJD) for the legal transaction, the amount of which, depending on the relevant autonomous region, is between 1% and 1.5% of the agreed purchase price. The deadline for payment of this tax is 30 working days after the sale is notarised.

For the purchase of a second-hand property, a real estate transfer tax (TPO) is incurred instead of VAT, and has to be paid by the buyer to the relevant tax authority within 30 working days from the sale being notarised. The amount of real estate transfer tax depends on the autonomous region in which the property is located, and ranges from 6% to 11%. There are also some reduced tax rates for special situations (e.g. when purchasing a property as your principal residence).



## 2. WHAT ARE THE OPERATING COSTS TO BE PAID BY THE OWNER OF A HOLIDAY PROPERTY?

There are various annual taxes related to ownership of a property in Spain. On the one hand, the annual property tax (IBI) must be paid. This is usually between 0.3 and 0.4% of the land registry value, and is fixed by the municipal administration. The person responsible for paying the tax to the municipality is the person who is registered as the owner in the land register on 1 January of each year. The payment obligation is an automatic lien on the property, i.e. the property is used as collateral for unpaid real estate taxes.

In addition, any owner who is not resident in Spain must submit an annual tax return for non-residents for the so-called “vacancy periods” and “self-use” of the property, by way of self-assessment. These are the days on which the property was not let, the owner used it himself, or it was simply empty. A type of own use rent is charged and taxed. The annual tax rate in turn depends on the land registry value of the property. If the property is rented, an income tax return for non-residents covering rental income must be submitted quarterly. Depending on the value of the property and the autonomous region in which it is located, it may be necessary to submit a property tax return.

## 3. WHAT COSTS ARE INCURRED WHEN SELLING A HOLIDAY HOME?

As with the acquisition, notary fees, land registry fees and, if applicable, lawyer’s fees and agent commissions. In terms of taxes, on the one hand, a local tax on the increase in land values (Plusvalía) will be applied to the increase in value of the land. On the other hand, there is capital gains tax to pay, with the latter being paid by non-residents as part of their income tax return. The capital gains are taxed at 19%. The amount of the tax on the increase in land value is determined by the municipality depending on the duration of ownership, up to a maximum period of 20 years. The basis for calculation of the tax on the increase in land value is the land registry value. A coefficient for the tax assessment is defined in the relevant municipal statutes, which is multiplied by the land value.

## 4. WHAT COSTS APPLY WHEN MAKING A LIFETIME GIFT?

A notary must be involved for the gifting of real estate, for both the promise to gift and the declaration of acceptance. As with a purchase of real estate, notary fees, land registry fees and, if applicable, a lawyer's fee for coordinating the process will also be incurred here. In order to avoid any issues relating to the tax consequences of a gift of real estate, we recommend advance tax planning involving a consultation with a Spanish accountant.

In the case of a gift, the recipient has to pay the gift tax which is due to the autonomous regions, and in different cases their percentage may be either fixed or increase with the value. In addition, the same party must also pay the tax on any increase in land value if it receives an urban property, unless it can prove that the value of the property is lower than it was at the time it was bought by the giver. The giver is responsible for paying tax on the increase in value since its acquisition, as this is considered a capital gain. The tax rate payable on this gain is 19% for non-residents in Spain (19 to 28% for residents).

## 5. WHAT COSTS ARE INCURRED IN THE EVENT OF INHERITANCE?

In the case of an inheritance, the parties can expect a number of costs and taxes. These mainly include inheritance tax, notary fees, land registry fees and the tax on the increase in land value (Plusvalía), which has to be paid by those who inherit a property on urban land. In addition, there are some very small government fees (approx. € 8) for obtaining the necessary copies of the Central Spanish Register for testamentary provisions and life insurance. Foreign-language documents, such as a foreign death certificate or an inheritance certificate, require a sworn translation in order to be accepted for use in Spain. The heirs must pay the inheritance tax, which is paid to the autonomous regions in the same way as the gift tax, so the percentage may vary depending on the location of the property. The inheritance tax is the most important issue in the case of an inheritance in Spain and can be reduced in some cases by applying allowances. If the inheritance involves a cross-border connection, we recommend involving a Spanish lawyer



with experience in the field of inheritance processing involving a foreign party.

## IV. TURKEY

### 1. WHAT COSTS DO YOU INCUR WHEN PURCHASING A HOLIDAY HOME?

Real estate is transferred directly at the land registry. The land registry fees are 2% of the purchase price for the buyer and the seller. If a property is acquired by foreigners, the Land Registry also requires a written valuation from a licensed property valuation company; the cost of this is around € 400. The standard estate agent's fee is also 2% plus VAT (18%) for both buyer and seller, but this fee is negotiable. There is no property transfer tax in Turkey. If the property is a new building being sold for the first time, foreign buyers are exempt from VAT if they are not resident in Turkey and they pay for the property in foreign currency. Otherwise, VAT of 8% of the price per m<sup>2</sup> must be paid for the first 150 m<sup>2</sup>, and 18% per m<sup>2</sup> must be paid for the area above that, if the property is acquired by a company.

### 2. WHAT ARE THE OPERATING COSTS TO PAID BY THE OWNER OF A HOLIDAY PROPERTY?

Once the property has been bought, a property tax of 1% of the market value of the property must be paid each year; payment is made in two instalments. If the property is located in a city, the property tax is 2% of the market value. The market value is recalculated every four years by the municipal valuation committees. In addition, there is a sewerage tax, but this is minor and is measured based on water consumption (TRY 1.50 per m<sup>3</sup> in large cities, otherwise TRY 1.10 per m<sup>3</sup>). In addition, you need electricity, water and, if relevant, natural gas customer contracts, the costs of which are minor.

### 3. WHAT COSTS ARE INCURRED WHEN SELLING A HOLIDAY HOME?

On sale, land registry fees of 2% of the purchase price and, if relevant, estate agents fees of 2% plus VAT (18%) of the purchase price apply for each of the buyer and seller. If the property is sold less than five full years after the purchase

of the property, the seller must pay income tax on the difference between the two purchase prices. The income tax varies between 15 and 40% and depends on the amount of profit the seller has made on the sale. If the seller benefited from the exemption from VAT and sells the property less than three years after purchasing the property, it must pay the VAT retroactively, plus interest.

### 4. WHAT COSTS APPLY WHEN MAKING A LIFETIME GIFT?

The gift is also recorded in the land registry office; the recipient of the gift must pay land registry fees of 6.831% of the value of the property declared to the land registry office. In addition, there is gift tax. Since the exemption amount is only TRY 23,387 (this amount is adjusted every year), gift tax always has to be paid. The gift tax rate is graduated depending on the value of the gift and in 2023 is 10% for the value of up to TRY 1,100,000, 15% for any amount above this up to TRY 2,600,000, 20% for any amount above this up to TRY 5,500,000, 25% for any amount above this up to TRY 10,900,000 and 30% on all amounts exceeding TRY 20,100,000. These thresholds are also adjusted annually. If the gift is made to parents, spouse or children, the tax rates mentioned above are halved.

### 5. WHAT COSTS ARE INCURRED IN THE EVENT OF INHERITANCE?

The transfer of a property to the heirs also takes place in the land register, but no land registry fees apply. In the event of inheritance, the tax-exempt amount for spouse and descendants is TRY 1,015,747 each, if there are no descendants, the tax-exempt amount for the surviving spouse will double to TRY 2,032,742. For larger amounts, the inheritance tax rate varies like the gift tax. In 2023, the inheritance tax is 1% for amounts up to TRY 1,100,000, 3% for any amount above that up to TRY 2,600,000, 5% for any amount above that up to TRY 5,500,000, 7% for any amount above that up to TRY 10,900,000 and 10% for any amount over TRY 20,100,000. These thresholds are also adjusted annually.



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