# Non Residents
# Face Extreme Measures Against Tax Fraud

On March the 1st a new resolution against tax fraud was published in the BOE, approving and confirming the general guidelines for Annual Tax and Customs Control in 2012. The fight against tax fraud; a key strategy of the Tax Agency in fulfilling its mission of effectively implementing the state tax system; is especially important in our current economic situation and budget deficit, and so is taking extreme priority and force, especially against non-residents.

Non-residents in Spain with tax obligations due to property will now be subject to numerous checks via the Tax Office, other public administrators and the Land Registry, in order to obtain information on ownership and details as to whether the taxpayers are meeting their obligations. In further measures to detect fraud and undeclared rentals the Tax Office will also be verifying energy consumption with electric utilities, to ensure that property use and income is being declared properly.

If a breach of tax obligations is detected a notice will be issued demanding the payment of tax for up to 4 years, imposing a penalty for the breach, alongside an increased surcharge of 20% default interest on the total amount. The first notice would be sent to the property address, establishing the law without enforcing it, serving more as a reminder. After 2 further attempts to notify the property owner by mail, the notice would be published in the related Official Bulletin, outlining the legal effects of the communication and setting out all legal deadlines.

Failure to comply with this notice; alongside the penalties and sanctions previously mentioned; could also cause more serious consequences such as the seizure of the property. However, if a non-resident taxpayer decided to rectify this situation before receiving such a notice, then they would not need to pay the penalties described. It is for this reason that it is essential to understand the applicable taxes as a non-resident; highlighting the importance of quick compliance and understanding that Inland Revenue will not accept ignorance as a valid excuse for tax evasion.

As a brief reminder, I shall now highlight the basic tax obligations that a non-resident property owner must meet:

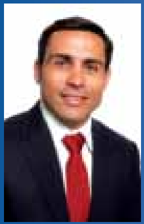
• Whether a property is owned by an individual or a group (including married couples), each person is considered a separate taxpayer and so they must file separate tax returns. One tax return per person, per property must be filed.

• Depending on the property's purpose, the income is subject to one of 2 different types of tax.
- When the property is not rented out, and is used for "own use" this amount will correspond to the Property Value (IBI), generally 2%, and Annual Performance Earned at around 24.75%.
- If the property is rented out, the full amount received from any tenants must be declared, specifying and deducting expenses such as community fees or property taxes, and then is taxed at 24.75%. This income is taxed each time it is received and so many statements will need to be provided, though the income can be accrued to file as one tax return each calendar quarter.

• When the total value of assets and rights exceed the limit of 700,000€ (deducting any debts or taxes paid), wealth tax is payable annually on the 31st December, calculated by applying a progressive scale ranging from 0.2% to 2.5%.

• If a property is sold and a profit is made, the seller will be required to pay Capital Gains Tax, though it should be noted that they will be required to notify Inland Revenue regardless of whether a profit or loss is made. This tax is determined by calculating the profits made, deducting taxes and excluding interest, and then depending on the acquisition year, it is "corrected" by applying a conversion factor set annually by the State.

These factors are just a brief summary of the taxes non-residents are obligated to pay, and after detailing some of the consequences that tax evasion can cause it is very important that these regulations are not breached. Our Tax and Fiscal Department at Lexland Abogados can provide you with a free study of your situation, and help best advice you on how to proceed in the most tax efficient manner. As always, time is of the essence so please contact us today via email at **comunicaciones@lexland.es** or phone at **+34 952 778899.**



Francisco Rodriguez joined the team at Lexland Abogados in 2005 as Head the Tax and Accounting department. He graduated from Málaga University in 1997 with a Degree in Business and Economic Studies, and since then, went on to achieve a Masters Degree in Accountancy in 2007. He has over a decade's experience working as a Tax Consultant for a number of international law firms, and is considered a specialist for all tax and accounting related matters by the "Registro de Asesores Fiscales del Consejo Superior de Colegios Oficiales de Titulados Mercantiles y Empresariales" in Spain, as well as being a member of the Spanish Tax Consultant Association (AEDAF).

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