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LEGAL GUIDE OF THE PROPERTY PURCHASE PROCESS IN SPAIN

This guide was updated in accordance with the Law 5/2021, of October 20, about Ceded Taxes of the Autonomous Community of Andalusia which sets as final the general rates stated for the purposes of the Transfer Tax and Stump Duty, by the Decree-Law 7/2021 (in force from April 28, 2021) that were initially set until December 2021.

This new Law has a vital importance for those who wants to invest in Andalusia independently of the price of the property.

Power of Attorney:

To make you easy the whole buying legal process, we take care of everything.

In case you shouldn't be able to be present to sign all the necessary documentation related to the purchase process, it would be recommended for you to grant a power of attorney to your legal representative. The power of attorney would list all the duties that can be carried out by your lawyer in your name since the beginning of all buying and/or selling process. You could either grant a Power of Attorney before a Notary public in Spain, or in your country. If you need to formalize the power of attorney in your country, your lawyer will prepare the document in Spanish and English to be signed before a notary public in your home country annexing the "Hague Apostille" which validate to foreign documents in Spain.

N.I.E. Number:

If you are willing to buy a property in Spain you should first obtain the N.I.E. document, which is the non-resident identification number for tax purposes. It is advisable to arrange this in advanced as it is needed immediately to complete at the Notary and to enable you to pay the legal taxes. To obtain it, you need to make an application at the National Police Station and to submit a copy of the relevant pages of your passport. You have also the option to contact with the Spanish Embassy of your country to help you in this matter.

Reservation Deposit:

Once you have chosen the property you wish to buy, you may be asked to pay a deposit, typically an amount of €6,000, to reserve the property and take it out of the market. At the same time, you may be asked to sign a Reservation Agreement.

Once the property is reserved in your name with a preliminary sales contract, it is important to get the information on the property regarding land register and legal issues.

We arrange the necessary to get the "Nota Simple" and check the title deeds in order to find out if the property is free of debts, if it really belongs to the seller, and if the description of the property matches with the information received from the owner.

The seller of a secondhand property should provide the receipts of payments of the real estate taxes (IBI, Rubbish taxes), utilities and community bills, to make sure that they have been paid up to date.



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Completion:

The property sale process finalizes with the buyer and seller signing the Deed of Sale (Escritura de Compraventa) before the Notary Public.

After the deeds have been signed, the buyer is handed the property keys, and can take possession of the property.

Inscription:

After the signing of the purchase title Deed, you are obligated to pay the transfer tax before the original Deed can be delivered to the Land Registry for its inscription.

This is probably the most important stage of the purchase process and it is vital that the property be inscribed in your name at the earliest date to protect your interests.

Utilities:

After the sale has been finalized, your lawyer should carry on with the post-completion matters; he should arrange the necessary to ensure you all the property's utility contracts are under your name (water, electricity, telephone, rubbish collection, etc.). He should also arrange for all your bills to be paid by direct debit to your Spanish bank account.

PAYMENT OF TAXES

The relevant taxes (Transfer Tax in a re-sale property, stamp duty, or VAT in case of a new hand property) must be paid within a fixed legal period to avoid fines:

Impuesto sobre transmisiones patrimoniales (I.T.P.):

The transfer tax must be payable when you purchase a secondhand property; **the rate is 7%**. (Instead of the 8%, 9% and 10% previously in force depending on the price of the property).

Impuesto sobre el Valor Añadido (I.V.A):

This is the Spanish equivalent of VAT, applicable when you purchase a new property from a developer, the rate is the 10% of the price.

A.J.D. (Stamp Duty):

Stamp duty is payable by the purchaser at 1,2% of the purchase price on a new property (instead of the 1,5% previously in force).



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Municipal Plus Valía:

It's a local tax based on the increase in the value of the property from the last transaction. It's based in a scale that takes into consideration the fiscal value of the property and the time since it was acquired by the owner. It must be paid within 30 days from completion at the Town Hall with a copy of the new Deed. Before completion, you can ask for an estimation of this tax at the Town Hall.

Please, keep in mind that the Government has issued the Royal Decree-Law 26/2021, of November 8, which adapts the revised text of the Local Tax Regulatory Law and establishes the option to demonstrate that there was no increase through purchase and sale titles.

Real Estate Tax (I.B.I.):

All property owners in Spain (residents and non-residents) are obliged to pay the Real Estate Tax (Impuesto de Bienes Inmuebles - IBI) to the Town Hall where the property is registered. The tax receipt is issued by the Town Hall based on a scale over the fiscal value assigned to the property. The IBI receipt reflects the cadastral reference number, that can be check in the Cadastral office, and allow you to verify, among other things, its fiscal value, location, extension, and year of construction.

Community Bills:

If you have bought an apartment or villa, which take part of a building complex, keep in mind that these will be subject to the Spanish "Ley de Propiedad Horizontal" (Law of Horizontal Division). According to this Law, all property owners are part of the Community of Property Owners (Comunidad de Propietarios) and are responsible for the maintenance of the common areas, therefore, they all them participate in the expenses of the community on a pro-rata basis. Every owner must pay their community fees established by the members at the Annual General Meeting.

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This guide is only a summary of the process for the purchase of a property in Spain, for you to have a general idea.

Keep in mind that each individual case can vary and the regulation, as well: reason why is highly recommended to ask for the legal advice of a professional with experience in this matter.