

Spanish Government encourages foreign executives to establish their residence in Spain

Individuals establishing their fiscal residence in Spain as a consequence of a moving to the Spanish territory will be allowed to choose between being subject to the Personal Income Tax or to the Income Tax on Non-residents, during the fiscal year in which they move their residence and the five following years.

This measure, recently approved by the Government, and pending to be enacted by the Parliament, aims to encourage foreign companies executives to move their residence to Spain.

According to the Law in force, a foreign individual moving his fiscal residence to Spain is liable to the Personal Income Tax in respect of his worldwide income.

It is important to note that the highest Personal Income Tax rate is 45%, whereas the single Tax on Non-residents rate is 25% over Spanish-source income, although neither deductions nor credits are allowed.

According to the new amendment, since next year, those persons will be able to choose the tax they prefer being liable to.

In order to avoid abuses, there are some requirements, as anti-avoidance rules, to be complied before being allowed to opt: the person must not have being resident in Spain in the ten previous years; the moving needs to be consequence of an employment contract, and the work must be effectively executed in Spain. Moreover, the work needs to be carried out for an entity resident in Spain o for a permanent establishment of a foreign company in Spain. Finally, employment income obtained cannot be exempt on the Income Tax on Non-residents.

Tax payers choosing being subject to Income Tax on Non-residents, will be also liable to Net Worth Tax.

Even if the Spanish authorities declare the aim of those provisions is to promote the internationalization of the Spanish economy, it will be interesting, in general, for those executives who derive high employment income in Spain, and establish there its residence.

It is important to note that foreign investment in Spain has known a great increase in the last years, mainly through ETVE entities (Spanish short-name for entities holding foreign securities). Such entities are an excellent tax planning vehicle, allowing international groups to invest in any other country trough a Spanish holding company, with low tax costs.

The new measure encourages the executives of those international groups to establish their residence in Spain.