



PEREZ  
LEGAL GROUP



GUIDELINE PROCEDURE FOR PURCHASING A PROPERTY

Prior to viewing any properties make sure you have familiarized yourself with this basic guideline.

## ORGANIZE YOUR FUNDS \_\_\_\_\_

To reserve a Spanish property it is customary to place a holding deposit on it, this takes the property off the market and prevents you from losing it to someone else. The normal deposit amount is 3,000 or 6,000 Euros, which can be paid by credit card or transfer. Sterling cheques take up to 21 days to clear in which time your property could go to another buyer.

## THE BUYING PROCEDURE:

- 1) Once you find the property you would like to buy, you need to make an offer to the seller and wait for confirmation of your proposal.
- 2) If it is accepted let us know by email or phone call, providing details of the agent and telephone number. From here on we take over the whole process.
- 3) In Spain a deposit needs to be held in our law firm's escrow bank account and we have to confirm we are holding it on your behalf. Only then will the seller take the property off the market and will provide the documents to us in order to commence the searches.
- 4) We will provide a full report of the searches within 3-4 working days after the deposit has been received in our escrow account (normally 3,000 Euros or 6,000 Euros). Please note that any law firm in Spain will request a Power of Attorney, without it we are not able to assist and provide legal representation. The power of attorney can be signed in the UK following our instructions and preparation or in Spain. Please see below.

## GET FREE ADVICE \_\_\_\_\_

Our recommended advisors at Perez Legal Group, who have proven experience in assisting overseas UK buyers, will give you a FREE INITIAL CONSULTATION prior to purchase.

## DUE DILIGENCE-LEGAL SEARCHES ON RESALE PROPERTIES \_\_\_\_

Do not hand over any deposit directly to the seller or the agent. Never hand any deposit directly to a private vendor. We will hold the deposit in our law firm's escrow bank account until we have checked the following:

- We will check the Land Registry history of the property and if the sellers are legally the owners.
- We will check that the property is free from any charges, encumbrances, liens, attachments, etc.
- We will visit the Town Hall and apply for a copy of the license of first occupation or responsible declaration, depending on the area where the property is located. In some autonomous regions, such as Costa Blanca, the first license expires after the first 10 years and it then needs to be renewed and an application made for a responsible declaration or license of second occupancy.
- We will check that the square metres of the property, registered in the Land Registry office, match the square metres registered in the cadastral office (Town Hall) and that any extension or modification made to the property by the owners after the license being issued, are legally registered in the Town Hall and Land Registry office.
- If the property is older than 10 years (first 10 years of construction, the property has a building insurance), we will strongly advice to engage an Architect (building report) to confirm the state of the property in respect of any subsidence, roofing, structure, pool if there is any, dump?, etc.
- We will check that all the running costs of the property, such as local property tax, rubbish collection tax, community fees (if applicable) are up to date in payment. If they are not paid the property will respond directly for any debt and not the seller.
- Once this process is completed you will be provided with a report on the result of the searches and all the figures for the ongoing expenses of the property you are acquiring; such as how often they are paid together, with contact details of the community administration and of reference numbers of the utility companies.
- We will proceed with the signing of the private purchase contract.



## DUE DILIGENCE-LEGAL SEARCHES ON NEW PROPERTIES \_\_\_\_\_

On a new property the legal searches are slightly different to a resale property. Perez Legal Group will check the following:

- That the complex where you are buying the property has obtained the building license from the Town Hall and all fees have been paid in this respect.
- That the plot of land where the complex is going to be built is registered in the name of the seller's company and if there are any charges registered against it.
- That the developer's company will provide 10 year insurance guarantee and cover any defect on the property.
- That the developer's company will provide an individual insurance, or bank guarantee, for any payments made before handing over the property at the Notary Public office.
- That the developers company is duly registered in the Companies Registry and is up-to-date in the filing of annual accounts and statutory obligations.
- That you, the buyer, have been provided with a detailed plan of the property you are buying.
- That you, the buyer, have been provided with all the qualities, specifications and details of materials used in the property.
- If the developer's company offers a mortgage to be taken by the buyers.
- That the contract to be exchanged covers the legal situation of the purchaser with regards to delivery, who pays what, etc.

## EXCHANGE OF PRIVATE PURCHASE CONTRACT \_\_\_\_\_

At this stage Perez Legal Group has completed the legal searches and investigations on the property explained above and will have arranged with the owner the procedure for the cancellation of any outstanding debts. The private contract of sale or option will reflect all the agreed terms of the offer, and sale, and set out the date for final completion at the Notary. It is customary practice at this stage to pay 10% of the purchase price which is normally non-refundable should the purchaser not complete.

If the seller fails to sign the title deed on completion the deposit already paid, plus twice the amount of the deposit will have to be refunded to the buyer.

## FINAL COMPLETION

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A sale is formally completed when the deeds or “escritura” are signed before a Spanish Notary Public, where full payment (minus any deposit or amount paid at the signing of the private purchase contract) is made and possession is formally handed over to the buyer. As we are holding your special and specific power of attorney, there will be no need for you to attend personally at the Notary’s office on that day. Of course, you have always the option to do so.

## REGISTRATION

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Once signed, the Notary will fax a note of the title deed to the local Land Registry. Perez L. Group will also pay on your behalf all the relevant transfer taxes associated with the purchase and will handle all the formalities for registration of your title deed. Final registration of the deed may take up to 3 months. Similarly, we will arrange for the transfer of accounts with the local suppliers of utility services, such as water and electricity, and organize their payment through a local bank (direct debit as an optional service).

## PURCHASING COSTS

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Apart from the purchase price of the property it is important to note that there are several additional fees and taxes. As a general rule of thumb you should always add around 13-14% to the purchase price to cover these costs. Included in this figure is your property transfer tax at 8% (Andalusia & Murcia), 10% (Costa Blanca), plus Notary Fees and Land Registry fees, together with the legal fees.

## RUNNING COSTS OF ANY SPANISH PROPERTY

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Once the property has been selected the ongoing expenses are: Annual Property Tax, (referred to as IBI), community fees, charges for rubbish collection, water rates, electricity charges and Wealth and Income Tax (annual tax to be paid to the Spanish Inland Revenue); for this last payment a tax representative should be named in order to receive notifications and file the taxes on behalf of the client.

## COSTS INVOLVED IN PURCHASING THE PROPERTY \_\_\_\_\_

There are basically three fees and two taxes to pay when purchasing property in Spain.

Legal fees: Normally charged at a % of the purchase price plus VAT (currently 21%)

Notary fees and Land Registry fees; the scale is fixed by law and may range from 1,200 Euros for lower priced properties to 1,700 Euros for higher priced properties.

## THE TAXES ARE AS FOLLOWS \_\_\_\_\_

8% Transfer tax (from 0-400,000 Euros on the property purchase price, 9% from 400,000 Euros to 700,000 Euros and 10% onwards, or VAT at 10% from 1st of January 2013 with a payment of 1.5% Stamp Duty. The rate of 21% is applicable when purchasing plots of land, commercial premises and garage spaces.

## NEW CONSTRUCTION \_\_\_\_\_

When buying a villa or apartment yet to be constructed, special care needs to be taken. Bank guarantees will need to be obtained for each payment made to ensure that the buyer can have his money returned if the project fails to complete on time, if it comes to a standstill or simply is never started.

Many developers offer these bank guarantees free of charge, others make a percentage charge.

The VAT charged on new properties is rated at 10% with 1.5% of Stamp Duty.

## MORTGAGES \_\_\_\_\_

There are virtually no exchange controls in Spain which means that whether resident or not you are free to obtain a mortgage in Spain against your property.

The period of the loan will depend on age of the applicant/buyer and can be extended to 20-30 years and the amount borrowed may be up to 70% of the bank valuation of your property. You will need to provide proof of your capacity to repay the mortgage; most banks will look for monthly earnings in excess of three times your expected monthly mortgage repayments.

## SPANISH WILLS

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Spanish laws protect family heirs in that they restrict the testator's freedom to dispose of his estate to anybody he so chooses.

If a foreign resident dies in Spain without a will his estate will be distributed according to the Spanish Laws of Succession.

Without a Will the heirs will be involved in time consuming, expensive legal procedures. You must ensure that your foreign will excludes Spain and that any subsequent will you make in another country does not supersede the testamentary dispositions under your Spanish Will.

## INHERITANCE TAX

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Tax is chargeable on inheritance by the spouse, children, or any other party who receives any part of the deceased's estate in Spain.

Beneficiaries who are not family will be penalized under the Spanish Law of Succession and inheritance tax by applying multiplicands to the tax rate applicable.

## MITIGATION

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It is possible to minimize liability for inheritance tax.

There are basically two methods by which one can purchase property in Spain:

1. As a private individual: The decision to purchase in one's own name should be based upon the following:
  - High inheritance tax.
  - Spanish law of succession
2. Using a company: The property may be bought in the name of a resident company of one of the Member States or registered in a country which has a double taxation treaty with Spain which includes a clause for the exchange of information.





## OUR SERVICES BY PEREZ LEGAL GROUP



## DIRECT DEBITS – SPANISH BANK ACCOUNT

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The standard running costs of your Spanish property will be:

- Local Property Tax
- Electricity
- Rubbish Collection Tax
- Water
- Community fees
- Sometimes Gas and Telephone

We will change over all the utility contracts and arrange standing orders for direct debits from your Spanish bank account.

In case you do not have a bank account at this stage, please let us know and the bank will forward you the forms by post.

• **Local Property Tax (I.B.I) and Rubbish Collection Bills.** Once the title deed is signed before the Spanish Public Notary we will inform the Town Hall that you are the owner of your Spanish property. Although this bill is issued every year, sometimes it can take up 2 years for the Town Hall to issue the first ones. Normally the notification bills will be sent to your Spanish property address. Please inform us and we will be able to organise payments and standing orders for future payments, at this stage.

• **Water and Electricity.** These fees will depend on the purchase price. It will normally cost approx. 300 Euros for both. The payment of water and electricity fees will be on a bi-monthly basis (electricity can be around 150 Euros every 2 months and water around 30 Euros every 2 months). Please note that the connection fees are quoted in our Payment of Schedule.

• **Community Charges.** As an owner in a community you will be responsible for payment of your share of the expenses incurred in the maintenance and upkeep of the communal property. The fees will depend on many factors. We will inform you of the community fees, how often they have to be paid, and the Administration contact details. We can also set up a standing order for this.

• **Telephone.** In the case of resale properties, we advise you to cancel the existing telephone line. Costs of a new line will be 200 Euros approx. In the case of new properties, Pérez Legal Group can arrange a new connection at your request and set up a standing order in your Spanish bank account.

## N.I.E - POWER OF ATTORNEY \_\_\_\_\_

In Spain each person is assigned a tax identification number (N.I.E) which must be used on all tax returns and communications addressed to the tax authorities.

In general, the N.I.F (Tax Identification Number) of a Spanish national coincides with his National Identification Number (D.N.I); but in the case of a non-resident, their Foreigner Identification Number will be an "N.I.E". This identification number is issued by the General Directorate of the Police.

This N.I.E (Foreigner Identification Number) should be processed before Completion (i.e. before signing the purchase title deed and final payment to the vendor/developer). Therefore, we need you to grant us a Power of Attorney which will enable us to handle all the optional services provided in our letter of engagement as well as: setting up standing orders and direct debits for all the utilities in your Spanish bank account, buying your Spanish property on your behalf (in case you are not able to be present), filing the necessary Tax Returns, etc... (For your information, please find enclosed a draft copy of the Power of Attorney which is also available in Word format and can be sent by email to you.

You could either grant the Power of Attorney in your country of origin or here in Spain.

### **In your country of origin:**

- A). A double-column document in English and Spanish, where the required faculties are inserted, will be forwarded to you. The Power of Attorney is to be signed in the presence of a Notary Public who will insert his/her details (typed or in hand writing), ensure your identities match the details of the Power of Attorney and that you agree with the contents of the documents and sign accordingly. The Notary Public will sign at the bottom and either seal or stamp the document. You can print two copies of the document, save on a disc or email it to the Notary's office.
- B). Legalisation of document: Once you have completed the above process the Power of Attorney is to be legalised with the Hague Apostille which can easily be done by post, by the FCO (Foreign and Commonwealth Office), in London. You can see the procedure by clicking on [www.fco.gov.uk](http://www.fco.gov.uk) at the legalisations department. Normally the Notary Public office will take care of this process too.
- C). Legalised copies of your passports: You should go through the same process with your passport (A & B).

In Spain:

You simply contact our office and inform us of a convenient date to arrange an appointment.

## PREPARATION, ADVICE & INHERITANCE SERVICES FOR UK EXPATS FOREIGNERS HAVE FREE DISPOSITION

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Any foreigner can make a Spanish Will leaving his Spanish property to any person of his choice.

In Spain the Spanish Registrar of wills accepts this rule and when the time arrives, and the will is executed, the inheritors will take possession of their new property.

In practice the authorities do not ask whether the testator is an official resident or not. They accept the Spanish will as being valid. The only requirement enforced by Spain is the payment of Spanish inheritance tax which will be different for resident or non-resident inheritors.

## DYING WITHOUT A WILL

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If a foreigner dies in Spain without a will his estate in Spain will be distributed according to the Spanish laws of succession.

For example, a husband and wife own a house, 50% each, and they have 3 children. The surviving spouse continues to own half the house, because her name is on the title deed as half owner anyway, the other half of the house constitutes the estate.

This will be divided equally among the 3 children. When the estate is settled each child will have one-third title to half of the house, meaning that each one now owns one-sixth of the house and the title deed has four names on it; the widow and each of the 3 children. The widow also holds a usufruct on the children's share, meaning she can use her half of the property until she dies, as well as her own half.

They must all be in agreement and sign the deed if the house is to be sold.

Dying without a Will can cause time consuming and expensive legal procedures for your survivors, so if you really want to care for them and if you have any definite ideas about how you want your estate to be distributed, you must make a Spanish will. It's a very easy process, it is not expensive and you will feel more secure



## COSTS AND FEES ASSOCIATED WITH MAKING A SPANISH WILL

The normal costs would be between 200 Euros and 250 Euros depending on the lawyer's fees.

Separately to this you will have to pay the Notary Fees for the will which is approx. 65 Euros.

Your lawyer will prepare your will as a double-column document, in English and Spanish, and will take it to the Notary Public (with your passport) in order for you to sign the will in the presence of the Notary Public. No one will be able to take your place in the signing of a will.

## ADVANTAGES OF SIGNING A SPANISH WILL

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There are different points to bear in mind:

1. You should make a Spanish will disposing of your Spanish assets in order to avoid time consuming and expensive legal problems for your heirs. Make a separate will disposing of assets located outside of Spain.
2. You don't have to follow the Spanish law of compulsory heirs in which you must leave two thirds of your estate to your children. You can leave your estate to whomever you choose.
3. You can plan ahead your Spanish inheritance tax; Spanish law provides exemptions for family members such as spouse and children.
4. If you are an official resident in Spain leaving your property to your spouse or child who is also resident means you are entitled to a 95% reduction in your inheritance tax calculation. This advantage is not available to non-residents. The reduction is applied to the first 175,000 Euros of value.

## TAX REPRESENTATION

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By law a non-resident owner of more than two Spanish properties should appoint a tax representative in Spain. Failure to do so may result in a fine of between 150 Euros and 6,000 Euros. Those who only own one property in Spain, are not obliged by law to appoint one, but it is in their best interest to do so.

Pérez Legal Group takes care of filing your non-resident tax returns (Wealth and Income Tax) with the Spanish Inland Revenue.

We will also keep you informed of any taxes you will have to pay now and in the future, according to the information in our files concerning the property/properties you own in Spain.

In relation to this please note the following:

1. Any non-resident individual owning a property in Spain is liable to the payment of both Wealth and Income Tax.
2. These taxes must be paid on an annual basis. If you bought your property in 2015, then 2016 is the first year you have to pay your taxes. If you bought before this date we are also able to update your taxes at your request.
3. Should you fail to pay your Wealth and Income Tax to the Spanish Tax Authorities upon the sale of your property in Spain you will not be able to recover the 3% withholding made on the sales price made on account of possible capital gains tax. In other words the Tax Office will deduct your Wealth and Income Tax for the previous five years, plus accrued interest over that period of time and the corresponding penalty, from any potential reimbursement. The Wealth Tax rates are not applicable to properties whose value is under 700,000 Euros.

In order to give a value to your property for the calculation of Wealth Tax, the Tax Office will apply the highest of the following three:

- The value of the property appearing in the local rates (cadastral value).
- The purchase value appearing in the Purchase Title Deeds or “Escritura de Compraventa”.
- The Tax Value established by the Administration Office.

Any non-resident individual with a property in his name is subject to 2% of presumed revenue (or 1.1% if the cadastral value has been recently revised) of the value of the property. This tax is presently 25% on such revenue.

The Inland Revenue considers that the owner of the property is receiving an annual income equal to 2% of its value and a 25% tax is applied on this amount.

The valuation for the presumed Income Tax is the cadastral value shown on the Local Property Tax (I.B.I. bill).

Pérez Legal Group can act as your Tax Representative, filing all the necessary forms and reminding you of payments due to the Spanish Tax Authorities. However, it is the responsibility of the client to pay the annual taxes levied on your property.

## HOME INSURANCE

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Before completion we will provide a quote to insure the property, together with its belongings, and to cover civil liabilities. Our responsibility is limited to obtaining the quote. It is the client's responsibility to supply us with true and accurate information. We cannot be held liable for failure on the part of any such insurance company.

**Client account escrow service:** By using our client account facility you can avoid high bank charges imposed by most entities on non-resident accounts and save up to 0.5 % of the transferred sum. The Pérez Legal Group client account yields 0% interest to clients, on all funds held on behalf of clients of Pérez Legal Group.

When providing any services we will conduct our activities diligently with a view to maintaining the highest professional standards at all the times. We undertake to look into any complaint promptly and if you are still not satisfied you may of course take up the matter with Bar Association in Málaga under which we are regulated.

**Perez Legal Group will represent you in your property purchase located in any part of Spain**

**Lawyers, Chartered Accountants & Tax Advisors**

**Tax, Accounts & Tax Advice for companies and self-employed workers**

**Conveyance & Litigation Lawyers**

**Inheritance Services for foreigners - Spanish Wills**

**WE ARE REGISTERED WITH N° 759 IN THE SPANISH ASSOCIATION of TAX ADVISORS & ACCOUNTANTS OF ANDALUSIA**

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**CONVEYANCE & LITIGATION LAWYERS**

**INHERITANCE SERVICES FOR FOREIGNERS – SPANISH WILLS**

**BUYING & SELLING YOUR PROPERTY**

**NON RESIDENT TAXATION**

**SPANISH WILLS & INHERITANCE TAX**

**TAXES ON PROPERTY**

**LEGAL CONVEYANCE OF LAND, PROPERTIES & PREMISES**

**NIE & RESIDENCIA APPLICATIONS**

**SPANISH COMPANY PROPERTY HOLDERS (DORMANTS)**

**SPANISH COMPANY WITH BUSINESS ACTIVITY**

**DIRECT DEBIT OF UTILITY BILLS AND RUNNING COSTS OF A PROPERTY**

**WORKING & STARTING A BUSINESS**

**REGISTRATION OF ANY DEEDS & POWER OF ATTORNEYS**

**ACCOUNTING & FISCAL SERVICES FOR INDIVIDUALS & BUSINESSES**



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