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EVERYTHING YOU NEED TO KNOW ABOUT THE BECKHAM LAW IN SPAIN

SCORNIK GERSTEIN LLP



CONTENTS

| | |
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| ■ WHAT IS THE “BECKHAM LAW”? | 3 |
| ■ WHEN DOES AN INDIVIDUAL BECOME A SPANISH RESIDENT FOR TAX PURPOSES? | 4 |
| ■ WHAT ARE THE BENEFITS OF THE BECKHAM LAW? | 5 |
| ■ WHAT ARE THE ENHANCEMENTS THAT THE SPANISH START-UP LAW INTRODUCES TO THE BECKHAM LAW? | 6 |
| ■ IS SPANISH WEALTH TAX PAYABLE BY TAXPAYERS WHO PAY TAXES UNDER THE BECKHAM LAW? | 7 |
| ■ WHO IS ELIGIBLE TO APPLY FOR THE BECKHAM LAW TAX REGIME? | 8 |



WHAT IS THE "BECKHAM LAW"?

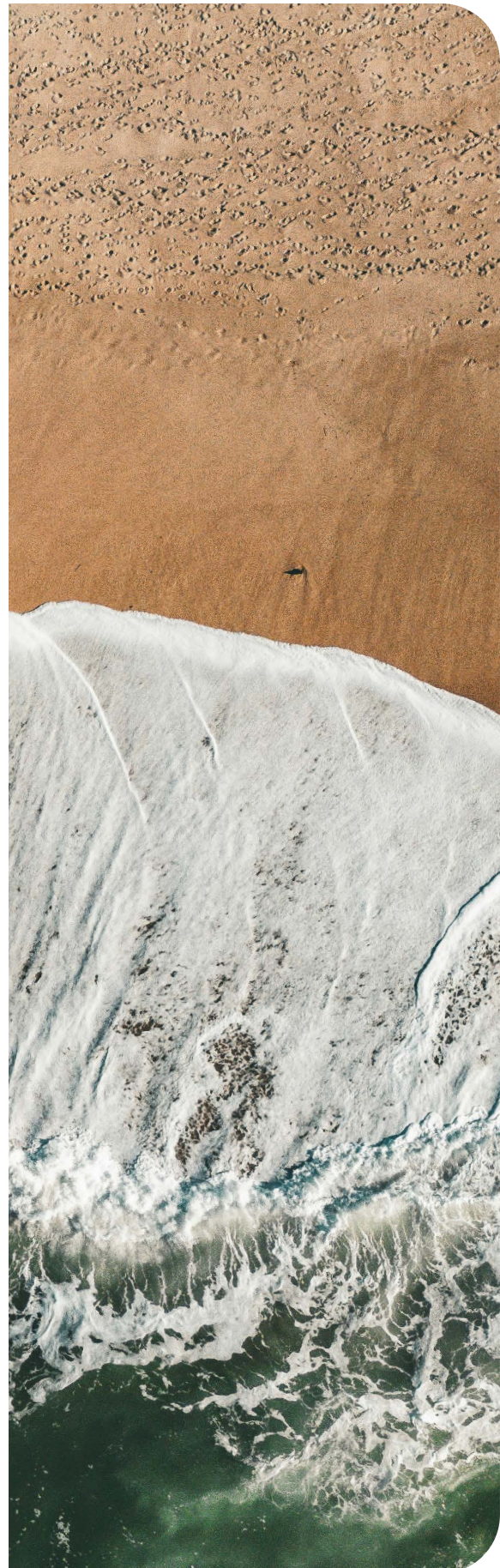
Similar to the UK's non-Dom regime, the "Beckham Law" enables foreigners moving to Spain to elect being treated as non-Spanish tax residents, despite becoming de facto tax residents, and up for 6 years, becoming liable only for any income gained and assets held in Spain, leaving any other income and assets gained and held elsewhere non-taxed in Spain.

WHEN DOES AN INDIVIDUAL BECOME A SPANISH RESIDENT FOR TAX PURPOSES?

Individuals who either spend 183 days or more in Spain during a calendar year, or whose main base, center of activities, or economic interests is in Spain, will be deemed Spanish tax residents unless proven otherwise. This is also the case when the spouse and underage dependent children of the taxpayer permanently reside in Spain.

However, this test normally serves as a tiebreaker rule to determine the country in which the taxpayer must be considered a tax resident when interpreting a double taxation agreement between two countries.

It should be noted that being a Spanish resident for tax purposes does not necessarily translate to being a Spanish resident for immigration purposes. For example, a foreigner may enjoy Spanish permanent residency and yet not be considered a Spanish tax resident.



WHAT ARE THE BENEFITS OF THE BECKHAM LAW?

Spanish Tax Residents pay taxes at a progressive tax rate from 19% to 47% on their worldwide income. In contrast, Non-Spanish Tax Residents – and therefore those having gained Non-Spanish Tax Resident status under the Beckham Law – pay taxes at a flat rate of 24% up to the amount of 600,000 Euros and of 45% thereafter on their Spanish income, leaving any income gained outside Spain to be levied at the corresponding foreign jurisdiction.

Employment or work-related income is deemed to be obtained in Spain when working remotely from Spain, despite the employer or paying party being located outside Spain.



WHAT ARE THE ENHANCEMENTS THAT THE SPANISH START-UP LAW INTRODUCES TO THE BECKHAM LAW?

The enhancements to the Beckham Law introduced by the Spanish Start-Up Law are the following:

I. TAX EXEMPTION FOR REMUNERATION IN KIND

Under the former redaction of the Beckham Law, only taxpayers paying taxes as Spanish tax residents were able to exempt tax on certain income received as remuneration in kind. However, under the new redaction of the Beckham Law, pursuant to the amendments introduced by the Start-Up Law, such exemption is extended to non-Spanish tax residents and, therefore, to those within the scope of the Beckham Law.

An example of remuneration in kind that is exempt is the payment of employees' children's tuition.

II. EXTENDING THE SCOPE OF ITS APPLICATION

The Start-Up Law extends the scope of the application of the Beckham Law, allowing Digital Nomads, Highly Qualified Professionals, and those who provide services in the fields of research and innovation to pay taxes under the Beckham Law regime, provided they meet certain requirements.

In addition, the Start-Up Law also extends the scope of the application of the Beckham Law regime to the taxpayer's family members.

III. REDUCTION OF THE PRIOR NON-RESIDENCY REQUIREMENT

The requirement of not having been a Spanish resident prior to applying for the Beckham Law tax regime is reduced from 10 to 5 years.



IS SPANISH WEALTH TAX PAYABLE BY TAXPAYERS WHO PAY TAXES UNDER THE BECKHAM LAW?

In those Spanish regions where wealth tax has not been abolished, this is levied on the assets held by the taxpayer at 31 December, the accrual date, provided that the net value of the taxpayer's assets exceeds 700,000 Euros.

Spanish tax residents are subject to wealth tax on their worldwide net assets, whereas non-Spanish tax residents – and therefore those who have obtained non-Spanish tax resident status under the Beckham Law – are subject to wealth tax only on their assets located in Spain.

In this regard, it should be noted that for the tax period 2022 onwards, shareholdings which at least 50% of the total assets of the company consists, directly or indirectly, of properties located in Spain, are subject to wealth tax.

WHO IS ELIGIBLE TO APPLY FOR THE BECKHAM LAW TAX REGIME?

I. Professionals relocated to Spain because of an employment contract.

II. Company directors.

This special tax regime continues to apply to those who relocate to Spain after being appointed as directors of a company. However, whereas under the former redaction of the Beckham Law the director was required not to participate in the company (nor to hold shares), or, if they did, could not be deemed to be connected to that company according to the criteria established in Article 18 of the Spanish Corporate Tax Act, under the new redaction this limitation has been removed, unless the company is a real estate holding company.

III. Those who have obtained a Spanish Digital Nomad Visa.



IV. Professionals relocated to Spain to carry out an activity qualified as entrepreneurial according to Article 70 of the Law on Supporting Entrepreneurs and their Internationalisation.

V. Highly qualified professionals relocated to Spain to provide services to start-ups certified as innovative by ENISA.

VI. Professionals relocated to Spain to provide services in the fields of research, development and innovation, provided that the income derived from these activities exceeds 40% of their total income

VII. Taxpayer's family members.

Under the former redaction of the Beckham Law, family members of the main taxpayer benefiting from the Beckham Law regime could not themselves benefit from it. Under the new redaction introduced by the Start-Up Law, the spouse and children (under 25) of the main taxpayer, as well as any dependent persons with disabilities regardless of age, may also benefit from the Beckham Law regime, provided that they meet certain requirements.



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