

Be careful, non-resident tax owners

Presently, by the fall of prices on the property market, many owners sell their homes for a similar or lower price than the purchase price when they originally bought them, which the main result is that there is no capital gains or this is not that much high on the sale of the property.

However, if these owners are non-resident tax in Spain, that is, if they pay taxes in another country, then the buyer has the legal obligation to withhold 3% of the purchase price and to pay it to the Tax Office, on account of the capital gain tax that the seller must pay for the gain on sale of his property. 18% is the tax rate that the Spanish Tax Authorities apply on the capital gain from the sale of a property. If the seller has not obtained any capital gain or if the tax that he should pay for the gain is less than 3% retained by the buyer, the seller may request a refund of the whole amount or part of it.

Well, in the moment that the Tax Office receives the request of the seller for the reimbursement of the income of 3% from the property sale, they firstly check whether the owner has submitted the form 210 (before 2008 it was the form 214), for the last 4 years prior to the sale of the property; in case he has not submitted it or he has not submitted any during these obligatory periods, the Tax Office demands the vendor to regularize the situation before returning anything.

In view of this requirement, the seller must submit and pay the corresponding tax due for every year that he has not submitted the form 210, with late payment interest and a financial penalty from the Tax Office for not fulfilling the obligation of submitting the form on time.

Because our experience tells us that many non-resident tax owners do not undertake the obligation of submitting the Form 210, we would recommend you to do it from this year. In case you would decide not do it now, you will probably have to do it later, paying a penalty as extra cost, and if it was your situation, an extra deadline in order the Tax Office to return the amount that the buyer withheld in the purchase of the property.

If you are trying to sell your property, and you have not submitted this tax during the last four years, we do recommend you to regularize the situation and submit the tax. This will prevent you a possible financial penalty from the Tax Office, because if you submit this form with no requirement from the Tax Office, that is voluntarily, you will not be sanctioned by the Tax Authorities.



May you need further information regarding the form 210, please feel free to read the article published on our website (www.cdsolicitors.com) last November.