

# Residencia: fact, fiction and rumour

One very important aspect of living in Spain which seems to cause a great deal of confusion is the subject of residencia. I have lost count of the number of clients who have been under the impression that the requirement to register as a resident has now been abolished. This is completely untrue. The very useful "carnet" or residency card is no longer issued and it has been replaced by a less useful but equally mandatory certificate.

From March 28, 2007, the Royal Decree 240/07 has required that all EU citizens who reside in Spain for more than three months register in person at the Foreigner's Office (Oficina de Extranjeros) in their province of residence or at designated National Police Stations. The nearest National Police Stations are in Málaga, Fuengirola and Marbella but expect a long wait. This requirement is obligatory and not optional. If you already have a valid residency card you need take no action until your card expires.

Unless you speak good Spanish and have a great deal of patience, it is recommended that anyone requiring a residency certificate uses the services of a gestor or other professional specialising in assisting with the application. They can take you to the Police Station, put you in the right queue and help with the officials. Some have even been known to help you avoid the queues altogether!

If you haven't already got one, you will need an NIE (tax number for foreigners) certificate, your passport (up to date) and the completed application form (modelo Ex.16). You also have to pay a fee at the bank before you apply using a payment form, which you can get from the police station.

Many people are under the misapprehension that obtaining the residency card or certificate is all that is necessary. However this is simply a legal registration with the Ministry of the Interior. It does not, contrary to popular belief, bring any tax benefits such as the possible exemption from capital gains tax when you sell your property. To take advantage of some of the tax benefits available to Spanish residents you must register as a fiscal resident of Spain. This means that your worldwide income would be taxed by the Spanish tax office rather than the tax office of your home country. Strictly speaking, fiscal residency is mandatory if you spend more than 183 days a year in Spain; it is not supposed to be optional.

Some income such as state pensions and pensions for public employees are already taxed at source and are treated favourably.

However, interest, investment income and private pensions would all be subject to tax in Spain rather than in your country of origin. Some types of pension such as annuities are taxed at favourable rates so it may be possible to end up paying less tax than you were as a UK taxpayer.

You should use the services of a qualified gestor or accountant to prepare your tax return, which should be done by the end of June each year in respect of income received during the previous calendar year. You can then apply for a certificate of fiscal residency, which may help avoid the dreaded capital gains tax if you are over 65 or are investing the proceeds in another property in Spain.

Finally, everyone living permanently in Spain should register on the "padrón" of their local town hall. This is basically the electoral roll and a certificate of "empadronamiento" can be a useful document to have. Furthermore it will help your town hall as they get additional Government funding depending on the number of residents on the padrón.

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