

In order to make your claim, you will need to provide the tax office with a series of documents, some of which you will all ready have, others you will have to ask either the notary, your agent, the purchasers bank or the purchaser to supply.

You will have your original title deeds, but ask for a copy of the "copia simple deeds" of sale, provide all the receipts for purchase, i.e. notary, land registry, sales tax, plus valia, any invoices for legal improvements, estate agents invoice, the original of the Model 211 on which the 5% was retained, one copy is for you and the other for the purchaser (you need the one that says "El transmitente no residente". A copy of the current years local rates bill, and finally all the non resident tax forms for the last 5 years, these will either be a model 214 or a 714 and 210.

Any invoice, must state the name, address and NIE, CIF or DNI number of the supplier, without it, they will not be accepted. If you have lost any of the legal registration documents, these amounts will be quoted in your title deeds, so don't fret!

Once all the figures have been totted up, the tax rate is applied, for non residents that's 35%!!!! If the 5% that was originally paid into the tax office was more than the calculation of the 35%, that is when you are going to receive a refund. You will need to keep your bank account open in order to receive the funds as the

the tax office will not credit an overseas account. Your reclaim form, before presentation, must be witnessed by your bank, they will prove to the tax office, that your signature really is your signature and that your account number has been quoted correctly.

If you have omitted to pay any tax in the previous five years before sale, this will need to be paid, before the tax office will look at your reclaim. If you have done all of the above, then it is just a case of sitting back and waiting, but don't hold your breath!!!



Tenerife International Business Centre SL

Always around when you need a hand

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Retentions — Capital gains tax

You have just sold, or are planning to sell your property and have been told that as a non resident you are going to have 5% of your declared value withheld. Are you entitled to claim it back? – Lets see!

As a non resident anyone who sold their property from 1992 to 1996 had 10% of the declared value withheld from them, but after the 31/12/96 the amount was decreased to only 5%. Your purchaser, their agent, their bank will insist on it! Because if they don't they will still be liable for it, and if it remained unpaid they would find themselves with an embargo placed on the property.

Many of our clients from Amarilla Golf and some other developments have a purchase contract that is dated way before the title deeds, unfortunately, it's the date on the title deeds that is going to count in the calculations. Our accountant is going to make to try and reclaim some of that 5% from the tax man. The date to remember is 31.12.86 and this is only as long as no improvements have been made legally to the property. If your title deeds come under this, then you will not have the 5% stopped, the whole declared value is yours. I'm afraid to say, that this does

not apply to non resident companies.

If the date of your deeds is from 1/1/87 or you have made legal improvements to the property after that date, then I am afraid to say, you will have to pay the 5%. The purchaser has to present his payment to the bank no later than 30 days from the date of the sale. Then the vendor has between the 30th day and the 120th day to make his claim. The tax office may accept a claim after the 120th day, but are likely to impose a small fine.

In order to make this as simple as possible (something that it is not actually) we will try and explain how the calculations are made.

You take the value of the deeds when you sold and sale expenses, less the value of the deeds when you purchased (here you have to take into account, inflation, legal registration costs etc, and legal improvements). If the tax office, do not accept the declared value at sale, they may and can revalue the property for tax purposes.

Now, if your deeds state that you purchased before 31.12.94, the above calculation is reduced, the closer the date of purchase to 1987, the better reduction you get. You are entitled to an 11.11% reduction per annum.

It is normal in Spain for the furniture not to be included in the deeds and this makes a much more attractive proposition for both purchaser and vendor. However, if the property was purchased furnished and they are included in the value of the deeds, purchase tax would be levied but at a lower rate than property registration tax. It is perfectly normal for a private deal to be made for the sale of the fixtures and fittings and much easier too.

Reclaim Check List

Client :

- Copy of the title deeds when you purchased
- Bill from the notary when you purchased
- Bill from the land registry when you purchased
- Plus Valia bill when you purchased
- Bill from the estate agent when you purchased
- Copy of your NIE certificate
- Stickers from the tax office with your NIE number on
- Last rates bill
- Copy of the title deeds when you sold the property
- Copy of the purchasers NIE certificates & Stickers please
- Originals of the last 5 years tax returns
- Receipt from the estate agent if you were charged any commission for selling the property
- Did you extend the property officially while it was yours. Please supply any original bills.
- Model 212 duly stamped by your bank or a Power of Attorney for us to receive the funds for you.
- Original Model 211 (sellers copy) proving that the 5% retention was correctly paid.

TIBC will not be responsible for any delays in presentation of the above mentioned paperwork if not complete. Any fines resulting in a delay are not the responsibility of TIBC.

Please note: that the tax office are not known for repaying these amounts quickly.