

# mavens

**SPAIN**

**Karol Gallardo Sotero**

Tax manager – Mavens

[Karol.gallardo@mavens.es](mailto:Karol.gallardo@mavens.es)



**Taxation on real estate investments  
in Spain: potential scenarios**

1. Brief overview of Spanish taxation on real estate investments
2. Efficient tax investment vehicles
3. Real estate investments from 0,5 to 5 M€
4. Real estate investments from 5M to 15 M€
5. Real estate investments from 20M€
6. Conclusions



# 1. Brief overview of Spanish taxation on real estate investments



- ❖ Spanish housing market had fallen from 2007 to 2015 but returned to growth in 2016. Nowadays, demand continues to rise strongly. Spanish house prices increased 3.6% during the year to August 2018 (Source: <http://www.ine.es/>) and has become an attractive investment opportunity for those in search of high-quality property investments at reasonable prices as **direct or indirect investor**. Not only coastal areas, but also major cities have experienced growing demand.
- ❖ There are different type of investors. For an investor planning structure, Spanish tax law adopts a substance-over-form approach. **Housing structures without a sound commercial basis and adequate substance are at risk to be challenged. A special analysis shall be made to implement a Spanish housing structure.**

## 2. Efficient tax investment vehicles



What is the  
Investor's objective

Direct Investment

Specific acquisition:  
1 property (0,5 - 5 M€)

**Objective:** valid  
residence permit  
which is for non EU  
investors

Golden Visa

**Objective:** Vacation  
property in Spain without  
an interest on residence  
permit

Properties: Madrid,  
Barcelona, Coast area

Indirect Investment

Real state investments for  
rental purposes  
Properties (5-15M€)

**Objective:** Tax incentive  
Special tax regime for  
rental housing

Investments for rental  
purposes / Properties ,  
premises, offices (20M€)

**Objective:** Tax incentive  
SOCIMI/ Real Estate  
Investment Trust Regime

**mavens**

# 3. Real estate investments from 0,5 to 5 M€



**What is the investor's objective**

**Specific acquisition:  
Property (0,5 - 5 M€)**

**Objective:**  
valid residence permit  
which is for non EU  
investors

**Golden  
Visa**

**Objective:**  
Vacation property in Spain  
without an interest on  
residence permit

**Properties:  
Madrid,  
Barcelona,  
Coast area**

**Direct Investment**

**Non resident In  
Spain/ EU or  
LATAM resident**



Taxation	
Direct	Non resident income tax- NRIT, Wealth tax, Inheritance tax
Indirect	VAT or Real estate transfer tax
Other taxes	Property tax, Municipal tax

### 3. Real estate investments from 0,5 to 5 M€

**Conclusion:** Individual investments of properties over € 500,000 → a further analysis shall be made to determine:

- (i) to set up a Spanish company to minimize tax impact from Inheritance Tax in Spain (Special attention on each Autonomous community tax treatment). *Additional tax obligations shall be also followed (e.g., adequate substance and reimbursement of individual use to shareholders).*
- (ii) To maintain directly the Spanish property (for rental or not) considering potential benefits vs. administrative and tax costs.

In case of **Golden Visa's interests**, the law provides that the investment is made by legal persons in the following terms:

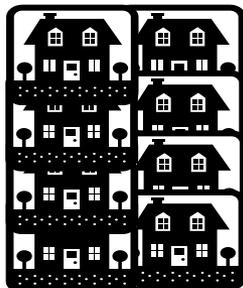
*"3. It will also be understood that the foreign visa applicant has made a significant capital investment when the investment is carried out by a legal entity, domiciled in a territory that is not considered a tax haven according to Spanish regulations, and the foreigner possesses, directly or indirectly, the majority of their voting rights and has the power to appoint or dismiss the majority of the members of its administrative body. "*

# 4. Real estate investments from 5 to 15 M€



Real estate investments for rental from 5 to 15 M€

Special tax regime for rental housing for CIT and VAT purposes



Tax benefits:

- ❑ Reduced effective Corporate Tax rate. A tax deduction of 85% in the tax rate of rental activities income. Effective rate of 3.75%.
- ❑ Reduced effective VAT rate. 4% VAT rate in acquisition of new properties for rental activities

Indirect Investment

Investing as Corporation



Spanish NewCo



mavens

## 4. Real estate investments from 5 to 15 M€

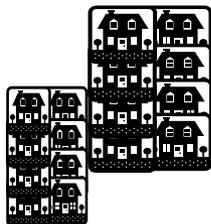
**Conclusion:** Investments from 5M to 15M with renting purposes shall:

- ❖ Incorporate a Limited Liability Company (S.L.) in Spain; and
- ❖ Apply for the Special tax regime for rental housing for CIT and VAT purposes

**Issues to be considered:**

- ❖ If the investment is made through a non-resident legal entity, Spanish Inheritance Tax and Wealth tax is avoided.
- ❖ In the event that the investments is directly held by a non-resident person, there are specific domestic benefits for Spanish Inheritance Tax and Wealth tax in case it is implemented the Family Business Regime where specific conditions shall be met.

# 5. Real estate investments from 20 M€



Real estate  
investments for  
rental from 20M €

SPANISH  
SOCIMI

## Tax benefits:

SOCIMI Taxation	
CIT	0%
RE Tax	Bonif. 95%
Transf tax	Exempt

- Shareholders taxation on dividends: 19% if taxation in destination is less than 10%

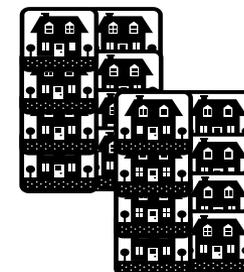
Shareholder Taxation	
NRIT: 25% + 1 year	5%
NRIT: others	15%

## Requirements:

- Share Capital: 5M €
- Assets minimum holding period of 3 years.
- SOCIMI must be listed at the Spanish stock market.
- SOCIMI must yearly distribute dividends.
- Minim. 80 % of total assets (urban real estate for leasing).
- Minim. 80 % of income (no capital gains) must come from leases to unrelated parties or dividends from other REITS.



SOCIMI  
up to 20 M€



mavens

# 5. Conclusions

- ❑ The efficient investment formula to invest depends on the investor's objectives and the investment's amount.
- ❑ The investment's objective shall be determined (short, medium, long term)
- ❑ A general tax analysis of different investment stages shall be made \*implementation, maintenance and divestment especially from investments over € 500,000.
- ❑ There is no general formula to determine which is the best investment structure from a tax point of view: case by case analysis is mandatory.

## 6. Contact details

<http://www.mavens.es>

Claudio Coello Street, 32 – First Floor

Madrid 28001 Spain

T. +34 91 702 24 25

F. +34 91 702 24 49



**Gema de la Calle**

Tax partner– Mavens

Gema.delacalle@mavens.es



**Karol Gallardo Sotero**

Tax manager – Mavens

Karol.gallardo@mavens.es

**mavens**

[www.mavens.es](http://www.mavens.es)