

# QUESTIONS & ANSWERS

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## ABOUT BUYING A PROPERTY IN SPAIN

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By Christopher Clover

Puente Romano

R E A L E S T A T E

— by —  
**PANORAMA**  
MARBELLA'S LONGEST ESTABLISHED REAL ESTATE AGENCY

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# QUESTIONS & ANSWERS

## ABOUT BUYING A PROPERTY IN SPAIN

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### PART 1

#### LEGAL FORMALITIES & COSTS INVOLVED IN PURCHASING PROPERTY IN SPAIN

Panorama always recommends that purchasers of property in Spain retain a qualified solicitor to represent them and qualified financial advisors to deal with tax issues.

Purchasing property in Spain is a relatively straightforward procedure. The “last word” in property ownership is the property registry, which will show immediately if the seller owns the property free of liens and encumbrances. Most frequently, unless an immediate payment of the full purchase price is made, a private contract of purchase is drawn up wherein the details of the purchase are reflected – the legal description of the property, purchase price, form of payment, date of completion, date of possession, etc. Upon signing the private contract, a payment on account of the purchase price is always made which can vary substantially according to the terms of the sale and the date of completion. A quite normal deposit for completion within 30 to 60 days would be 10% of the agreed purchase price.

New properties which are unfinished obviously are paid for over the construction period, and all payments on account before finishing must be guaranteed, according to the BUILDING ORDENANCE LAW (LOE), LAW

38/1999, by a bank or insurance company: if the property is not finished by a certain date, a purchaser has the right to reclaim the monies paid, plus legal interests. Additionally, this law obliges the property developer to arrange a TEN YEAR

insurance policy with respect to any basic building defects with the purchasers as beneficiaries.

When the entire purchase price is paid for the property, the seller will issue the public deed of conveyance (escritura) to the purchaser, free of liens and encumbrances. This deed

is issued before a Spanish Notary, is passed from the notary to the tax office to be assessed for Transfer Tax if the property is a resale or second hand property, or assessed for Stamp Duty if the property is sold

directly by the developer. Is then presented to the Property Registry for inscription. A provisional inscription in the registry is made immediately upon issuance of the deeds.

#### PROPERTY PURCHASE COSTS

Transfer Tax (I.T.P. Impuesto sobre Transmisiones Patrimoniales) scaled at 8%, 9% & 10% - Payable by the buyer for the purchase of any Real Estate (villas, flats, land, commercial premises, garages), provided the vendor is not a developer or normally trading in the business of resale properties (waiver to VAT exemption). If the “minimum fiscal value” of the property as per the Regional Government, is greater than the price, then the minimum fiscal valuation applies: 8% is applicable up to the amount of 400,000€ or 30,000€ in the case of garages except those belonging to the dwelling and with a maximum of two; 9% is applicable to the amount between 400,000€ and 700,000€ or between 30,000€ and 50,000€ for garages; 10% is applicable to the amount exceeding 700,000€ or 50,000€ for garages. Reduced transfer tax for real estate companies or professionals that buy resale property and sell within 5 years, at 2%

**VAT at 10% and STAMP DUTY (A.J.D: Actos Jurídicos Documentados, on notarisation of**

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**documents, only payable on land and new property sales) at 1.5%** - For any VILLA or APARTMENT, or GARAGE that is annexed to an apartment, where the vendor is a developer, promoter or habitual trader for **BRAND NEW PROPERTIES**.

**Example:**

For a property of 1,250,000€	
Up to 400,000€ - 8% =	32,000€
On 300,000€ (400,000€ to 700,000€) - 9% =	27,000€
Excess 550,000€ (700,000€ to 1,250,000€) - 10% =	55,000€
Total	

**VAT at 21% and STAMP DUTY (A.J.D: Actos Jurídicos Documentados, on notarisation of documents, only payable on land and new property sales) at 1.5%** -

for PARCELS OF LAND, COMMERCIAL PREMISES or COMMERCIAL GARAGE SPACES, where the vendor is a developer, promoter or habitual trader. This covers virtually all NEWLY URBANIZED LAND PARCELS and NEWLY BUILT COMMERCIAL PREMISES. This only covers resale properties when the vendor falls into one of the above categories.

### **NOTARY FEES AND PROPERTY REGISTRY INSCRIPTION FEES**

Notary fees can cost up to approximately €1.750 although the cost increases according to the number of pages or complexity of the title deed (e.g. transcription of statutes, payment in stages, property partially finished, etc.). As an example, an apartment costing €300,000 will cost around €46 in notary fees, whilst a property costing €600,000 will cost around €78 in notary fees. Any higher than this amount, the fees go up marginally. The property registry inscription fees also depend on

the complexity of the transaction. For example, fees for an apartment costing €600.000 to be registered in the name of one person and purchased without a mortgage loan, will cost around €300. For an apartment with the same sales price to be registered in the name of 2 persons and purchased with a mortgage loan, will cost around €800.

### **Municipal Added Value Tax (Plusvalía)**

This is an “added value” tax based upon the increase of the Town Hall index value of the land only, from the prior (vendor’s) purchase to the present sale. It is usually not a significant amount with respect to apartments or townhouses – less than €1000 for the most part for an apartment or townhouse which last changed hands five or six years ago – but can be more in the case of villas with a large tract of land.

This tax corresponds, by its nature, to the vendor who is responsible for its payment, unless otherwise negotiated. As there are several variable factors used in calculating this tax, especially the length of time of ownership of the property, the amount payable can vary substantially and should be verified before proceeding with the purchase.

### **SUMMARY**

The total official costs involved in purchasing a constructed residential property should be around 9-10% for resale properties or around 12% for new properties if VAT is paid on the purchase price, plus lawyer’s fees.

### PART 2

#### OTHER COSTS INVOLVED IN OWNING SPANISH PROPERTY



##### LOCAL RATES OR ANNUAL PROPERTY TAX (IBI)

Local rates are payable annually, and are calculated from the cadastral or rateable value of the land assigned by the Spanish Tax Office. The cadastral value takes into account the value of the land plus the value of the building, according to type, location, and usage. Upon this value, each municipal Town Hall decides on the percentage to be charged in respect of local rates. In the case of Marbella, the formula applied is 0.76% (for 2018) of the rateable value of the property, which is almost always far less than its true market value.

Examples: In 2006, a 2-bedroom apartment in the beachside complex of Marina Puente Romano which is in the heart of the “Golden Mile” paid rates in the range of €00 to €1,000 approximately. A free standing, large beachside villa in the heart of the “Golden Mile” paid annual rates of approximately €3,000.

##### RUBBISH COLLECTION & WATER RATES (BASURA Y AGUA)

The rubbish collection rate is applied by the Town Hall according to the property and payable every 6 months. For an apartment in Marbella rubbish collection is approximately €80 and a villa approximately €300 per year. Water consumption is calculated by the water meter consumption in cubic meters and is payable every 3 months. Payment can be made directly at the Town Hall or by bank with direct debit instructions.

##### COMMUNITY FEES

Generally speaking, the Community of Co-Proprietors or Homeowners’ Association is a legal entity comprised exclusively of the owners of the apartments in a building, or villas on an estate. The purpose of the Community is to own and maintain the common elements of the building or estate

in question, and each homeowner is obliged to participate in the expenses of the upkeep of the community areas and services on a prorated basis with the other owners. Usually, a homeowner’s percentage of the costs is fixed by the size of the apartment, or plot, divided by the total area of all the apartments or plots.

A budget for the annual community expenses is presented at the annual general meeting of the homeowners, and they or their authorized representatives must approve the budget by majority vote of those present at the meeting. Expenses can vary substantially according to the services provided, and normally include salary and social security of the hall porter, common garden maintenance, lift maintenance, repairs to common elements, rubbish collection, water for watering community gardens, electricity for lighting communal areas, insurance, security, and administration fees. The President of the community must, by law, own a property within the complex itself and is chosen by way of vote by the co-owners. The President has no remuneration for this role.

A typical 2 bedroom apartment in a building or area with a hall porter, swimming pool, and a small garden, could cost between €20 to €600 per month in community fees – but could go up to €600 or more per month in a high luxury building with a large community staff and many services.

In the case of an individual villa in an estate of villas, community fees are often less since the private gardens and exteriors of such properties are generally not maintained by the community, and the community fees are limited to road and roadside garden maintenance, basic common service maintenance, and security.

##### INSURANCE

A standard insurance cost for a €300,000 apartment with contents valued at €8,000 would be €95 per year. One should note that in an apartment building, the Homeowners’ Association is required to insure the building for its reproduction cost. Therefore, the

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individual's insurance policy for the apartment need not cover the entire value of the apartment, but only damages to the interior of the apartment, its contents, and third party liability. It is also advisable to insure the building at first risk in case the Community insurance is not comprehensive. For a villa with a reproduction value of €600,000 with contents insured at €80,000 the annual insurance would be in the area of €1,580.

### GARDENERS

The upkeep of a private garden is essential to the maintenance of your property and its cost will, of course, depend on its size. As a rough guide, the hourly rate is about €6. A full-time gardener on salary would cost in the area of €1,100 per month, whilst a half-time salary would be in the area of €700. Apartments and townhouses have the communal garden areas tended by a contracted gardener and the cost is included in your community fees. A villa on a plot of 2,500m<sup>2</sup> might require a gardener a few hours a week. A large parcel of a full acre or more may require a half or full-time gardener. Social security is an additional cost to full time wages and runs in the area of 40% of the salary.

### CLEANING SERVICE

Cleaning service is generally available on a full-time salary or hourly basis. Full-time salaries range from €700 to €900 per month plus approximately €40 per month social security contributions. Part time help is usually charged by the hour with rates varying from €10 to €15.

### ELECTRICITY

Electricity is billed monthly or bimonthly, depending on the area. Minimum rates are applicable whether you are in residence or not, and the minimum varies according to the amount of electricity your house could potentially use with all power and lights turned on. The minimum charge for an apartment might be between €10 and €15 per month. Charges for a villa are from about €100 to €150 per month, depending largely on the extent of the electrical installation.

General usage is €0.08 per Kwh plus tax. All rates are exclusive of taxes.

With all the sunshine in Marbella, you will nevertheless be using less lighting and heating than in a lot of other countries!

### FIXED-LINE TELEPHONE

The telephone bill is charged monthly. Standard rates vary according to the equipment installed, but can be in the region of €5 per month including a touch dial telephone and ADSL WIFI. A 3-minute call (daytime business hours) to any European Union country, direct dial, presently costs about €0.69 (excluding VAT). Fixed line calls to mobile numbers are in the region of €0.16 per minute per minute. There are many local and national telephone companies that can offer substantial savings to those who wish to spend some time studying the market. ADSL broadband services are available virtually anywhere and ADSL "packages" cost approximately €9 per month (plus VAT), including all local and national calls to fixed lines.

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### PART 3

#### TAXES



Some of the main taxes for non-residents in Spain include the following:

- a) Municipal Added Value Tax (PlusValía): Please refer to Part 1 of this article “Municipal Added Value Tax (PlusValía)”
- b) Rates or Annual Property Tax (IBI): Please refer to Part 2 of this article “Local rates or Annual Property Tax (IBI)”
- c) Rubbish Tax (Basura) Please refer to Part 2 of this article “Rubbish collection & water rates (Basura) (Agua)”
- d) Wealth Tax (Impuesto de Patrimonio) e) Income Tax (Impuesto sobre la Renta)
- f) Capital Gains Tax (Impuesto sobre Ganancias Patrimoniales Inmobiliarias) and Retentions

#### d) WEALTH TAX

Wealth Tax was reinstated in Spain in 2011. The new Royal Decree 13/2011 of 17 September 2011 brought this tax into force once again for the years 2011 and 2012 setting the new limits of the taxable

base, and it has been extended every year since then. It is still applicable for 2018, but we are not certain if it will continue to be extended after this year. Spanish Wealth Tax is based on the total net assets held on December 31 of each year and the tax rates range from 0.24% to 3.03%. Fiscal residents are liable for wealth tax on their net worldwide assets, while non-residents are taxed only on their net assets located on Spanish territory or taxable in Spain.

The general conditions of the new Wealth Tax are as follow:

- The minimum taxable amount has been raised to €00,000 (previously: €08,182.18). Therefore, individuals whose total wealth in assets is less than €00,000 are not liable to pay Wealth Tax.
- Each resident may deduct from the Wealth Tax the value of their main residence in Spain up to a maximum of €00.000 (previously: €50,253.03).

Wealth Tax is applied and adapted by each Autonomous Community. In Andalucía, the current rates are indicated in the following table:

Taxable	Tax Due	Rest of taxable base up to	% Applicable rate base
0	0	167,129.45	0.24
167,129.45	401.11	167,123.43	0.36
334,252.88	1,002.75	334,246.87	0.61
668,499.75	3,041.66	668,449.76	1.09
1,336,999.51	10,328.31	1,336,999.50	1.57
2,673,999.01	31,319.20	2,673,999.02	2.06
5,347,998.03	86,403.58	5,347,998.03	2.54
10,695,996.06	222,242.73	and above	3.03

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Wealth Tax is levied on an individual basis. When a property or other asset belongs to two or more individuals, each person will pay tax according to the percentage of the property held in their name and the corresponding loans. In the case of married couples, if assets are shared by both spouses, 50% shall be assigned to each unless proof to the contrary is presented.

### e) INCOME TAX

#### Residents (IRPF)

**RESIDENTS** in Spain must file Income Tax and declare the income they receive worldwide, regardless of their source.

For tax purposes, one could be considered a FISCAL RESIDENT in Spain if one resides in Spain over 183 days per calendar year, and has the main economic and vital (family) interests in Spain, regardless of whether one is officially resident.

#### Non-Residents (IRNR)

a) **NON-RESIDENTS** must also pay Income Tax (IRNR) on income received through the ownership of property in Spain. There are two forms of taxation applicable depending on the source:

- Income gained on property rentals: 24% on returns, with the exception of those taxpayers with fiscal residence in

any countries within the European Union, Iceland and Norway, in which case the rate applicable is 19% (and are also allowed to deduct expenses related to the rental).

- Derived benefit on own use of property: 24% of 1,1% of the rateable value of the property (if the rateable value has been revised or modified and has been entered into force during the taxable period or in the previous ten taxable periods), otherwise, the applicable rates will be: 24% of 2% of the rateable value of the property) with the exception of those taxpayers with fiscal residence in any countries within the European Union, Iceland and Norway, in which case the rate applicable is 19%.



**RESIDENTS in Spain must file Income Tax and declare the income they receive worldwide, regardless of their source**

Tax Year	2011	2012-2014	2015	2016	2017-2018
Tax Rate	24%	24.75%	EU, Iceland and Norway residents: 20% Others: 24%	EU, Iceland and Norway residents: 19% Others: 24%	EU, Iceland and Norway residents: 19% Others: 24%

**GENERAL NOTE:** We refer here to Property Income Tax. Different taxation applies depending on the source of non-resident income.



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### f) CAPITAL GAINS TAX and RETENTIONS

Capital Gains tax on the sale of properties for non-residents is set at 19% payable on profits earned on the difference of the property value between the year of purchase (purchase price plus costs) and the year of sale (sales price minus sales expenses), based on the approved annual percentage increase on the base value approved by law.

All non-resident sellers, regardless of when they acquired the property, are subject to 3% retention of the sales price, paid to the Tax Office by the purchaser on account of the seller and submitting a 211 form, taking this amount for the seller as payment on account of tax due on the income derived from this transmission. Therefore, the

acquirer will deliver to the non-resident seller a copy of Form 211 with which the entry of the retention is made, so that the latter can deduct this amount from the tax liability resulting from the income returns. If the amount withheld exceeds the tax liability, you may obtain a refund of the excess.



**ALL NON-RESIDENT sellers, regardless of when they acquired the property, are subject to 3% retention of the sales price...**

### CAPITAL GAINS TAX FOR RESIDENTS

- Brackets for General Taxable Base in 2016, 2017 and 2018:

Taxable Base (€)	Rate	
	2016	2017-2018
Up to: 12,450	19%	19%
12,450 – 20,200	24%	24%
12,200 – 35,200	30%	30%
35,200 – 60,000	37%	37%
Over 60,000	45%	45%

- Capital Gains Tax Brackets in 2016, 2017 and 2018:

Taxable Base (€)	Rate	
	2016	2017-2018
Up to 6,000	19%	19%
6,000 – 24,000	21%	21%
24,000 – 50,000	21%	21%
Over 50,000	23%	23%

### PART 4

#### MISCELLANEOUS QUESTIONS AND ANSWERS

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##### **Q: WHAT IF I WANT TO BUY A PLOT AND BUILD MY OWN HOME?**

**A:** Providing that a building plot is situated within an urbanization, or an area zoned within the Municipal Plan for such use, outline planning permission will already have been granted for the construction of a detached home. However, building regulations, which vary considerably, dictate the permissible size of the villa according to the size of the plot. Care should therefore be taken before proceeding with the land purchase that one will be allowed to construct one's chosen home on it. Panorama will be pleased to provide a list of bilingual architects, and to arrange viewings of some of their previous work.

##### **Q: ARE TECHNICAL SURVEYS AVAILABLE?**

**A:** A building survey, as it is understood in the U.K., is not necessary in Spain for mortgage purposes. It is nonetheless advisable when purchasing an older property. Common things to check for are the condition of the plumbing and electrical installations, waterproofing, roofing, and so on. These checks, as well as a full structural survey, can be carried out by a Spanish technical architect (aparejador) or indeed by a qualified British Chartered Surveyor. Any fees involved would be to the account of the prospective purchaser.

##### **Q: IS FINANCING AVAILABLE?**

**A:** Since the beginning of the banking crisis in 2008, Spanish banks have gradually started to lend money again to purchasers, and loans during 2010 have become easier to obtain, and more frequent. However, their criteria is much more stringent than before. A qualified foreign applicant can reasonably expect a mortgage loan to be approved for between 50% and 70% of the official valuation price of the property. However, the purchaser must prove that between 30% and 35% of his net disposable

income after taxes and after other mortgage commitments, is free to service the new loan.

Additionally, please note that valuations from so-called official valuers are coming in as low as 20% to 25% below real, proven market values. This is not always the case, but the banks are apparently encouraging low valuations, and the quality of the professionalism of the valuer is often up to the luck of the draw.

The easiest loan to obtain is that for 50% of the property's value. However, the banks are equally concerned about the ability of the applicant to service the mortgage loan, and still require a lot of documentation.

A foreign applicant should not be discouraged, however, and it is important to meticulously prepare the documentation needed by the bank. Current conditions dictate the need to have at least two or three banks to apply to. Your agent and lawyer can be very useful in this procedure, which can take anywhere from three weeks to almost two months from the time all the documentation is submitted.

A recommended route is to pre-qualify oneself with a bank before negotiating a purchase, which would be subject then only to the valuation which can normally be accomplished within 10 days. This allows a purchaser to negotiate for the property he chooses, without having to ask the seller for a purchase contract which would be conditional to the approval of the mortgage, as the basic loan would already almost have been approved. Sellers generally are reluctant to reserve a property under this type of condition.

A sample documentation required by the Spanish banks does not vary substantially from that required by banks in other countries, and includes:

- \* Two years' tax returns.
- \* If you are receiving a salary, the last 6 months payslips, as well as proof of any other regular income. If you are a company owner, the proof of your various means of income.

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- \* A list of your current monthly mortgage payments (if you have any).
- \* A statement of one's total assets and liabilities, confirmed by a professional accountant.
- \* Copies of one year's bank account statements.
- \* Copies of your passport
- \* In all cases, there will be a mortgage application form to fill in, and sometimes additional documentation is required, depending on the case.

The above can be supplied in English, for most applications, but if these documents are in another language, they must be translated officially into Spanish.

Obtaining a mortgage for Eastern European country nationals can be more elaborate, since the banking system there is not as transparent as in Western Europe.

### **Q: WHO PAYS ESTATE AGENCY FEES IN THE SALE OF A PROPERTY?**

**A:** The seller always pays agency fees, unless you come up with a different agreement with your agency. Although the seller remunerates his agency, the agent has an ethical obligation to see that the purchaser gets fair value for money, and at the end of the day, a good agent's job is to bring the buyer and seller together in harmony. This highlights the importance of working with an established estate agency with a strong reputation. The agency also has an obligation to see that the title deed to the property is passed free of all liens and encumbrances. Panorama provides an exceptional after-sales "settling-in" service for its clients, totally free of charge, as part of general company policy.

### **Q: HOW WILL I DEAL WITH STANDARD BILLS, E.G. ELECTRICITY, WATER, TELEPHONE, RATES, ETC.?**

**A:** Frequently the administrator for the Community

of Homeowners will settle these bills, but, if not, it is common practice in Spain to issue standing instructions to your bank to pay them on your behalf.

### **Q: WHAT IS AN URBANIZATION?**

**A:** An urbanization is a planned community which has met the standards of the various governmental agencies with respect of the use of the land (residential, commercial, sports area, green zones), and to providing a specific set of services and a minimum level of quality in the construction of roads, sidewalks, drainage, sewage systems, electricity and water installations, and so on. Obtaining permission to develop land into an urbanization can take a developer up to several years and several million euros of expense. The most obvious advantage to the owner of a property within an urbanization is the fact that the land usage is strictly controlled. If one decides to build a house on a plot in a section of an urbanization zoned exclusively for single-family dwellings, you are assured by law that neither an apartment block nor a rabbit farm can be located on the adjacent single-family plot!

### **Q: HOW LONG CAN I STAY IN SPAIN AS A TOURIST?**

**A:** Europeans from the E.U. can stay in Spain indefinitely. Visas are not required for some other countries such as the United States, but are still required in other cases, depending on one's country of origin, and with varying lengths of stay permitted. Any non-resident residing in Spain 183 days or more per calendar year is considered by the Tax Office to be a resident for tax purposes.

### **Q: WHERE CAN I SEND MY CHILDREN TO SCHOOL?**

**A:** There are several international schools in the area, including one in the Sotogrande area which provides weekly boarding facilities. Pupils are taught in English, and a choice of curriculum is offered between G.C.S.E.s and A-Levels, and the

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International Baccalaureate.

For further information, visit the websites listed below:

**Aloha College** - [aloha-college.com](http://aloha-college.com)

**Swans School** -

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

**Calpe School** - [www.calpeschool.com](http://www.calpeschool.com)

**Colegio Las Chapas** - [www.attendis.com](http://www.attendis.com)

**St. Anthony's College** -

[www.stanthonyscollege.com](http://www.stanthonyscollege.com)

**The English International College** -  
[eicmarbella.org](http://eicmarbella.org)

For an in-depth guide to schools in the Costa del Sol area, please consult the website:

[www.andalucia.com/education/schools/home.htm](http://www.andalucia.com/education/schools/home.htm)

### **Q: ARE THERE MEDICAL AND HEALTH INSURANCE FACILITIES?**

**A:** Marbella has the newest, most modern and well-equipped Regional Hospital in Spain (Hospital Costa

del Sol), in addition to

a good, well-equipped clinic with a substantial selection of general practitioners and specialists.

Private medical insurance is available through various groups such as SANITAS. This could cost from €0 to €30 per person per month, depending on their age and the state of their health. Spain's social security system now allows E.U. residents access to the health network via a special form (E-101). For residents who are self-employed, own a company, or are employees, your social security contributions automatically entitle access to the Spanish health network.

### **NOTES:**

Panorama considers the above information to be current and accurate at the time of writing, but it is nevertheless by its very nature abbreviated and intended to serve only as a guide and subject to errors or omissions.

Panorama always recommends purchasers or sellers of property to consult qualified Lawyers and

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