

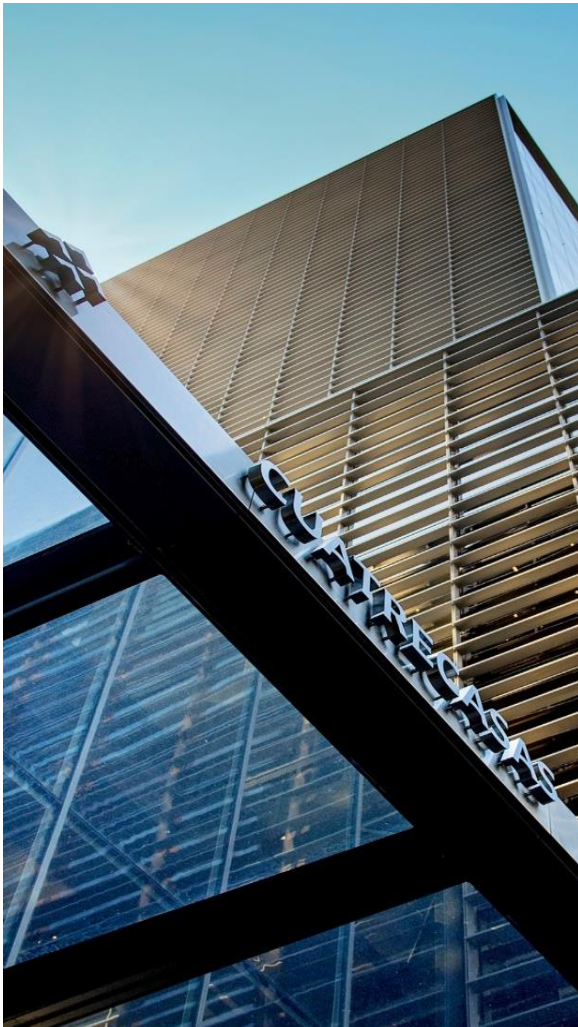
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# New tax laws in Andalusia: 99% allowance on Spanish inheritance and gift tax

Wednesday, April 25, 2019

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**Decree Law 1/2019, of April 9,  
introducing relevant changes regarding  
taxes assigned to Andalusia.**



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## Key aspects

- > A 99% allowance in the Spanish inheritance and gift tax for direct relatives and spouses for both *mortis causa* and *inter vivos* acquisitions.
- > Gifts must be executed in a public deed and, in the case of cash or account deposits, their origin indicated in the public deed.
- > The changes came into force on April 11, 2019.



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## I. Allowance of 99% in inheritance and gift tax in Andalusia

The most significant measure introduced by Spanish Decree Law 1/2019 is the approval of a 99% allowance in the Spanish inheritance and gift tax applicable to *mortis causa* acquisitions, including life insurance beneficiaries, as well as *inter vivos* acquisitions to which the laws of the autonomous region of Andalusia apply, provided the acquirers and the beneficiaries are the spouse, descendants and ascendants of the deceased or donor.

In general, the Spanish inheritance and gift tax is levied on heirs and donees because of their tax residence:

- Spanish tax resident heirs and donees are subject to Spanish inheritance and gift tax on any free transfers received worldwide, irrespective of the tax residence or domicile of the transferor.
- Spanish non-tax resident heirs and donees are subject to Spanish inheritance and gift tax on any Spanish-situs transfers received, irrespective of the tax residence or domicile of the transferor.

For the inheritance and gift tax laws of the Andalusian autonomous region to apply and benefit from the 99% allowance (as opposed to the Spanish legislation that has not been modified and does not contain any allowance), (i) in the case of inheritances, the deceased must have been tax-resident in Andalusia or the main inherited Spanish assets must be located in Andalusia; and (ii) with regard to gifts, the Andalusian 99% allowance would apply to gifted real estate located in Andalusia or where the donee was an Andalusian tax resident.

The possibility of nonresidents applying the autonomous regional laws is envisaged in the second additional provision of Spanish Act 29/1987, of December 18, on the inheritance and gift tax for residents in the European Economic Area and, more recently, by Supreme Court case law that has extended its application to residents of third-party States.



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## II. Enforcement

This change came into force on April 11, 2019, date on which the above Decree Law 1/2019 was published in the Official Gazette of the Regional Government of Andalusia.

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## III. Conclusion

With the approval of these attractive tax measures, it may be of interest to review certain family situations and consider gifting to close relatives to enable them to benefit from these measures.

The measures could be amended if there is a change in the autonomous region's government.

Spanish wealth tax continues to be in force in Andalusia and no changes have been implemented in this respect.

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