

The Beckham law in Spain



Tax regime for impatriate workers

An overview of what it is, to whom it applies, how it evolved and why it is best accompanied with a Luxembourg life assurance

What is it and to whom does it apply?

The Spanish impatriate tax regime (also known as the Beckham Law) offers an advantageous tax treatment to non-residents who move to Spain for professional reasons.

How does this tax regime work and why is it beneficial?

The individuals benefiting from such tax regime may continue to pay taxes as a (deemed) non-tax resident in Spain in the year when they move to Spain and in the following five years, and are therefore subject to reduced income tax rates (if compared to ordinary tax residents) on domestic sourced income.

Recent expansion of the impatriate tax regime : what's new?

The Spanish government has passed a new Law for the Promotion of the Environment for Emerging Companies (also known as the "Start-up" Law), which includes improvements to the impatriate tax regime in order to attract a broader range of highly-skilled workers into Spain.

Eligible persons

The provisions of the "Beckham regime" are extended to the following individuals:

- Distant or "remote" workers who provide their services online and do not have a Spanish employer or are assigned to a Spanish entity by their non-resident employer
- Directors of companies regardless of their stake in the share capital of the entity as long as that entity does not qualify as a passive holding entity. In the case of a passive holding company the director must hold a stake in the share capital lower than 25% to be eligible to the expatriate tax regime
- Professionals developing innovative start-up activities in Spain
- Highly-skilled professionals developing a business activity rendering services to start-up entities or R&D activities

The updated regime opens up the possibility to include within the impatriate tax regime:

- the spouse
- any children under the age of 25 years old
- disabled children of the qualifying expatriate

Condition: they move with the taxpayer during the first year of residence

Applicable period

The requirement of non-Spanish residence demanded to incoming impatriates in order to grant the so-called Beckham regime has been reduced from 10 to 5 years.

What about Solidarity Tax?

The Spanish General Tax Directorate has confirmed in a binding ruling that under the new Spanish Solidarity Tax, the taxpayers benefitting from the so-called Beckham regime would pay under the rules of non-tax residents (similarly to the applicable Wealth tax regime) and hence, foreign assets would not be includable in the Solidarity tax base.

How best to plan for when the "Beckham regime" expires?

The Luxembourg unit-linked life assurance serves as an excellent tax planning tool upon the expiry of the Beckham regime application and especially for revenues which, because of their "foreign nature" were totally exempt under the said regime.

For instance, if the taxpayer had a portfolio in a Swiss or Luxembourg bank and interest, dividend or gains were being realised on foreign financial assets, no tax had to be paid in Spain. However, further to the expiry of the regime, all the income would need to be included in the Savings Income tax base of the said client.

By subscribing to a unit-linked life assurance policy before the expiry of the regime, any gains realised upon the contribution in kind of the portfolio could be exempted (with the associated step-up in value of the financial assets) and any gains realised under the policy further to the subscription could be cumulated under a tax deferral instrument and not lead to any ongoing and yearly taxation at the level of the policyholder.

Any advantages of already taking out a Luxembourg life assurance at the start or during the "Beckham regime"?

Even for clients applying for the Spanish Beckham regime unit-linked life assurance remains an excellent option, as the following advantages apply:

- No income tax payment in case of partial or total surrender as the income generated has a foreign source
- Asset Protection: Luxembourg "Triangle of Security"
- Unseizability: full protection against claims by creditors
- Estate and Succession planning
- Portability of the policy in case of move to another jurisdiction
- Investment (through the policy) in non-quoted financial assets or funds which are not available to investor individuals
- Confidentiality (unlike companies which have a BO register)

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