



# Combined PIT-WT Limit extended to non- residents

Tax Alert



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## Extension of the combined PIT-WT limit to non-residents. Analysis of the Supreme Court case law

Non-resident taxation in Spain has undergone major changes in recent years, with significant shifts in the related jurisprudence, particularly as regards wealth tax. With its judgments of 29/10/2025 and 03/11/2025, the Supreme Court has established case law by allowing non-resident taxpayers to limit their WT liability, thereby equating them to Spanish residents. The legal grounds and practical effects of these judgments are discussed below.

The Supreme Court has recently established case law that extends to non-residents the right to reduce their WT liability based on their income, thereby equating them to Spanish residents. This document analyses the scope of this case law, its legal grounds, and its practical effects for non-resident taxpayers.

### Unlimited and limited obligations for wealth tax ("WT")

When defining the concept of taxpayer for wealth tax purposes, article 5 of Wealth Tax Law 19/1991 of 6 June 1991 (the "WT Law") distinguishes between individuals who have their habitual residence in Spain and those who do not. The former are required by the WT Law to pay tax on their total net assets, regardless of where these are located (the **unlimited obligation of residents**, or "*obligación personal*" in Spanish). The latter, on the other hand, are only taxed on the assets and rights they own where they are located or can be exercised or fulfilled in Spanish territory (the **"limited obligation" for non-residents** or "*obligación real*" in Spanish).).

For both types of taxpayers, the rules for the valuation of the assets and rights to be included in the tax base, the determination of the net tax base, the tax scale, and the calculation of the total liability are the same. However, in the case of taxpayers subject to the unlimited obligation, Article 31 of the WT Law provides for a combined limit on WT and Personal Income Tax (PIT) liabilities, such that the sum of both cannot exceed 60% of their taxable income for PIT. If this limit is exceeded, the WT liability may be reduced until the above 60% limit is reached, although the reduction is capped at 80%.

This limit serves as a maximum cap on taxation, preventing the total tax burden on income and wealth from becoming confiscatory.

### Recognition of the combined limit for non-residents

The non-application of the rules established in Article 31 of the WT Law to non-resident taxpayers in Spain was analysed by the Balearic Islands High Court. In its judgment of 1 February 2023 (ECLI:ES:TSJBAL:2023:130), the court ruled in favour of a Belgian citizen, a taxpayer subject to the limited obligation for non-residents, recognising his right to reduce his WT liability by treating the income taxed in his country of residence (Belgium) in the same way it would that of a resident in Spain. This decision has been confirmed by the Supreme Court in its judgments of 29 October 2025 (ECLI:ES:TS:2025:4849) and 3 November 2025 (ECLI:ES:TS:2025:4846).

The Supreme Court has held that limiting the application of the combined limit solely to residents breaches the principle of free movement of capital recognised in Article 63 of the Treaty on the Functioning of the European Union. The Supreme Court has thus validated the criterion of the Balearic Islands High Court, allowing the reduction of the WT liability for non-residents to be calculated based on the personal tax levied in their State of residence, even though it is not Spanish PIT.

The core theme in the Supreme Court's reasoning is the analysis of the comparability of residents and non-residents. The Court concludes that all WT taxpayers, whether residents or non-residents, are in a comparable situation regarding the object and purpose of the tax. Thus, the distinction between the limited obligation of non-residents (who are only taxed on their assets in Spain) and the unlimited obligation of residents (who are taxed on their worldwide assets) does not justify different tax treatment.

The Supreme Court stresses the fact that the Spanish tax authorities have mechanisms for exchanging information with other Member States, enabling them to verify the correct taxation of non-residents and prevent potential situations of abuse or fraud. As such, application of the combined limit to non-residents will not create an insurmountable obstacle for the Administration.

### Practical implications and effects of the Supreme Court case law

The Supreme Court judgments recognize the principle of non-discrimination, meaning that the combined limit provided for in Article 31 of the WT Law should also apply to non-residents, allowing the WT liability under the limited tax obligation to be reduced in accordance with the personal tax burden borne in the country of residence.

This binding case law applies both to future tax years and to previous non-statute-barred years (at least from 2021 onwards). It covers residents of the European Union as well as residents of third countries, since it is based on the infringement of Article 63 of the TFEU, which prohibits “all restrictions on the movement of capital between Member States and between Member States and third countries”.

The same reasoning applies to the Solidarity Tax on Large Fortunes, in force since 2022, for which the liability limit, together with that of the PIT and WT, is regulated in an identical manner (Article 3. Twelve of Law 38/2022). Therefore, non-residents should also be able to benefit from the combined limit for this tax.

This case law should be codified in future legislative reforms that regulate the extension of the combined limit to non-residents, as was the case following the judgment of the Court of Justice of the European Union of 3 September 2014 regarding Inheritance and Gift Tax.

### Conclusion

The Supreme Court judgments represent a significant step forward in the equal treatment of residents and non-residents regarding wealth taxation, and in guaranteeing the principle of non-discrimination and the free movement of capital within the European Union.

Non-resident taxpayers can now benefit from the combined IRPF/IP limit, allowing them to reduce their tax burden in Spain by taking into account the tax paid in their country of residence. This also opens the way for any non-residents who filed wealth tax returns in strict compliance with the wording of the law to request the rectification of non-statute-barred wealth tax self-assessments and the corresponding refund of undue payments.

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