

PURCHASE A PROPERTY IN SPAIN

GUIDE

“The ultimate property purchase guide in Spain with legal aspects and tax advices at a glance, to help you when purchasing a property in Marbella.”

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SUMMARY

CHARMING MARBELLA

After years of experience in the field, we count with a team of professionals who are highly experienced in assessing and advising clients when acquiring a property, keeping in mind the necessities of the client, the wide variety of available offers in the market and the preferred areas in which to invest.

We are an agency which is more interested in quality than in quantity, setting ourselves aside from the rest, giving a personalised service, dedicated only to understanding and satisfying the needs of the customer, greatly valuing the confidence granted to us.

Our work begins in analyzing the market, taking into account the current stability, forecasting the progress and level of development of the different areas of the coast. Attending to the budget of each investment we can offer different options and business alternatives.

FRANCO ABOGADOS

Franco Abogados is uniquely positioned as one of Marbella's leading boutique law firms with the following practice areas: Real Estate Law, Tax Advising, Corporate Law, Inheritance and Golden Visa.

Over 30 years, attention to detail, high-quality service and a sage approach has helped them successfully guide people from around the world.

INITIAL STEPS

The initial steps for the purchase of a property in Spain

Reservation of the property and private Sale and Purchase Agreement

The first step is to present an offer and thereby to remove the property from the market to protect the purchaser's interest for the purchase. Once the terms have been negotiated with the vendor and he has accepted your offer, a reservation agreement is formalised and a reservation deposit is paid in the approximate sum of between 3,000 EUR and 6,000 EUR for the purposes of the reservation of the property prior to the formalisation of the private sale and purchase agreement.

After the due diligence has been carried out and all legal matters have been verified, by which the purchaser has verified that the property is free of registered debts, charges or any other type of encumbrances whatsoever, that the vendor is the lawful owner of the property, etc. and provided that agreement is reached between both parties, a private sale

and purchase agreement is formalised by both parties.

The private sale and purchase agreement sets out all of the details of the operation, the payment terms and also the date of completion. The purchaser then pays a deposit (usually non-refundable) which is normally 10% of the purchase price, including the reservation deposit.

Formalisation

The sale and purchase operation is formalised by way of a public deed before a Spanish Notary Public, by signing a Title Deed. The role of the Notary Public is to formally identify the purchasers and vendors and to ensure that all of the legal requirements have been complied with and that the pertinent amount has been paid.

It is of utmost importance to ensure that the purchase of the property is carried out free of any charge, debt or mortgage whatsoever.

After the Title Deed has been notarised, the purchaser then legally acquires ownership of the property and takes the possession thereof and simultaneously pays the outstanding balance of the price.

After formalisation

After the Title Deed has been signed, the lawyer will manage the payment of the applicable taxes: Spanish Property Transfer Tax, Stamp Duty, Municipal Tax, etc. and shall also lodge the Title Deed at the corresponding Land Register for registration.

Moreover, the lawyer will establish the utility contracts (water supply, electricity, internet, etc.), and notify the corresponding authorities that the purchaser is the new lawful owner of the property, and will also establish the direct debit mandates for the Municipal Tax and other taxes.

FORMAL ASPECTS

N.I.E. (Foreigner's Spanish I.D. Number)

The N.I.E. document specifies a Spanish identification number for the foreigner that will remain the same for ever and it is obligatory to have as a foreigner for the purposes of the purchase of any type of property, opening of a bank account or even for the purposes of an internet contract.

Power of Attorney

By conferring a power of attorney in favour of an experienced law firm, the purchaser is legally empowering these lawyers to act on its behalf while being abroad. They will be able to sign contracts, deeds and all other documentation in relation on the purchaser's behalf, and they will also be able to pay taxes and carry out all of the needed paperwork to apply for the N.I.E. document. The power of attorney may be signed either in Spain or abroad.

If the power of attorney is signed outside Spain, the law firm shall provide the purchasers with detailed instructions. Certain formalities must be complied with in this case, for example, the Hague Convention Apostille which must be affixed to all documentation that is formalised outside of Spain.

Spanish Bank Account

It is recommendable to open a bank account in Spain as certain utility services are only payable through a Spanish bank account.

FRANCO LAWYERS MARBELLA



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ATTENTION TO DETAIL FOR OVER 30 YEARS

lawyers@francoabogados.com · +34 952 863 819

www.francoabogados.com

TAXES

Fiscal obligations exist that must be complied with both by residents as well as by non-residents in Spain.

Spanish Property Transfer Tax (ITP)

- New construction (First-hand properties):

10% VAT is payable over and above the purchase price. A 1.5% stamp duty tax (AJD Tax) must also be paid. Furthermore, urban land plots are subject to 21% VAT.

- Resale Properties (Second-hand properties):

The ITP (Spanish Property Transfer Tax) must be added to the purchase price. This tax ranges from between 8% to 10%.

Purchase price (in Euros)	Spanish Property Transfer Tax for properties situated in Andalusia*
< €400,000.01	8%
€400,000.01 - €700,000.00	8% of €400,000.00 + 9% of the difference between the purchase price and €400,000.00
> €700,000.00	8% of €400,000.00 + 9% of €300,000.00 + 10% of the difference between the purchase price and €700,000.00
* Tax rate may vary for the purchase of parking spots.	

Examples:

Purchase price (in Euros)	Spanish Property Transfer Tax
€350,000.00	8% x €350,000.00 = €28,000.00
€480,000.00	8% x €400,000.00 + 9% x €80,000.00 = €39,200.00
€1,800,000.00	8% x €400,000.00 + 9% x €300,000.00 + 10% x €1,100,000.00 = €169,000.00

Municipal taxes and other types of property taxes

The Spanish Property Tax (I.B.I.), which is a council tax, and the rubbish collection rate must be paid on an annual basis to the local council where the property is situated; usually paid in 1 or 2 instalments or by a direct debit mandate.

Wealth tax

This tax is calculated depending upon the assets an individual has in Spain as a non-resident or worldwide as a resident; (real estate properties, company shares, bank accounts, etc.). This tax must be declared if your net wealth exceeds 700,000.00 EUR per owner or if your gross wealth exceeds 2,000,000.00 EUR

If you become Spanish resident, then a reduction of 300,000.00 EUR exists in relation to your primary residence.

Inheritance and gift taxes in Andalusia

On 9 April 2019, the Government of Andalusia established that the inheritance and gift tax shall be the subject of a reduction of 99% of the pertinent tax liability. Accordingly, only 1% of what was previously payable will now be payable. Notwithstanding the foregoing, the percentage may vary in the case of large sums.

The preceding reduction may be applied to children, a partner and/or parents.

Property income tax

Property owners must file an annual tax return. Property income tax must be calculated depending upon whether the owner resides within the EU or not.

This tax may vary depending upon the country where the owner is resident and the local council where the property is situated, and whether the property has been rented or not.

Capital gains tax

Capital gains tax is payable after selling a property. The capital gains tax is calculated in relation to the capital gain generated by the property. The applicable tax rate is 19% for EU residents and 24% for non-EU residents.

When purchasing a property in Spain from a non-resident, the purchaser is required to withhold 3% of the purchase price. Within the period of one (1) month after the formalisation of the sale and purchase operation, the purchase must transfer said amount to the Spanish Tax Authority.

The vendor has a total of 4 months as from the formalisation of the sale and purchase operation in which to file the corresponding tax return. If the vendor's capital gains tax exceeds the 3% that has been withheld by the purchaser, then a difference (charged at a certain percentage) must be paid to the Spanish Tax Authority. In case the vendor's capital gains tax is lower than the 3% withheld by the purchaser, then the difference shall be refunded by the Spanish Tax Authority to the vendor.

MORTGAGE

If a mortgage is needed, an extra 1% (approximately) to the purchase price has to be added for the costs of the mortgage. Said amount shall cover the notary fees, the Land Register fees and the appraisal report for the property. Furthermore, banks will usually request to contract house and life insurance.

Necessary documentation:

There are no standard documentation requirements for all mortgage applicants. The necessary documentation will depend on the employment status, purchasing through a company, etc.

However, Banks usually request the following documentation:

- Spanish ID document number and/or passport number
- N.I.E. (Foreigner's Spanish I.D. Number)
- Income statement, P60, ...
- Most recent mortgage statements
- Lease agreement
- Bank statements
- Marriage contract (if married)

RESIDENCY IN SPAIN

It is easier as an EU citizen to obtain a Spanish resident's permit than as a non-EU citizen. However, if all requirements are complied, then it should simply be a matter of time.

Different types of resident's permits may be applied for:

- One (1) year residence visa.
- Two (2) year residence visa, that may be renewed if the investment is retained and if the investor is able to prove visits to Spain over said period.

GOLDEN VISA

The Golden Visa is a residence by investment visa permit established by the Spanish government for a non-EU citizen to be able to legally reside in Spain, It grants the following benefits:

Allowance of staying 1 year in Spain instead of a max 90-day period for non-residents

Keeping the tax residency outside of Spain, as there is no requirement of a minimum residing period of 183 days in Spain to renovate the visa

Free circulation without restrictions through the Schengen Area.

This visa may be granted to people who carry out a significant investment in Spain, as set out herein below:

- Investment in real estate over and above 500,000.00 EUR (which may be invested in different properties throughout Spain).
- Investment in bank deposits or stocks of Spanish companies over and above 1,000,000.00 EUR.
- Investment in Spanish Treasury Bonds over and above 2,000,000.00 EUR
- Starting a business project that is of general interest, that creates jobs or that may have a significant socio-economic impact.

The investor shall be able to include within the resident's permit application its family (a single spouse and children). Accordingly, this is a particularly safe option for families who want to begin to reside in Spain.



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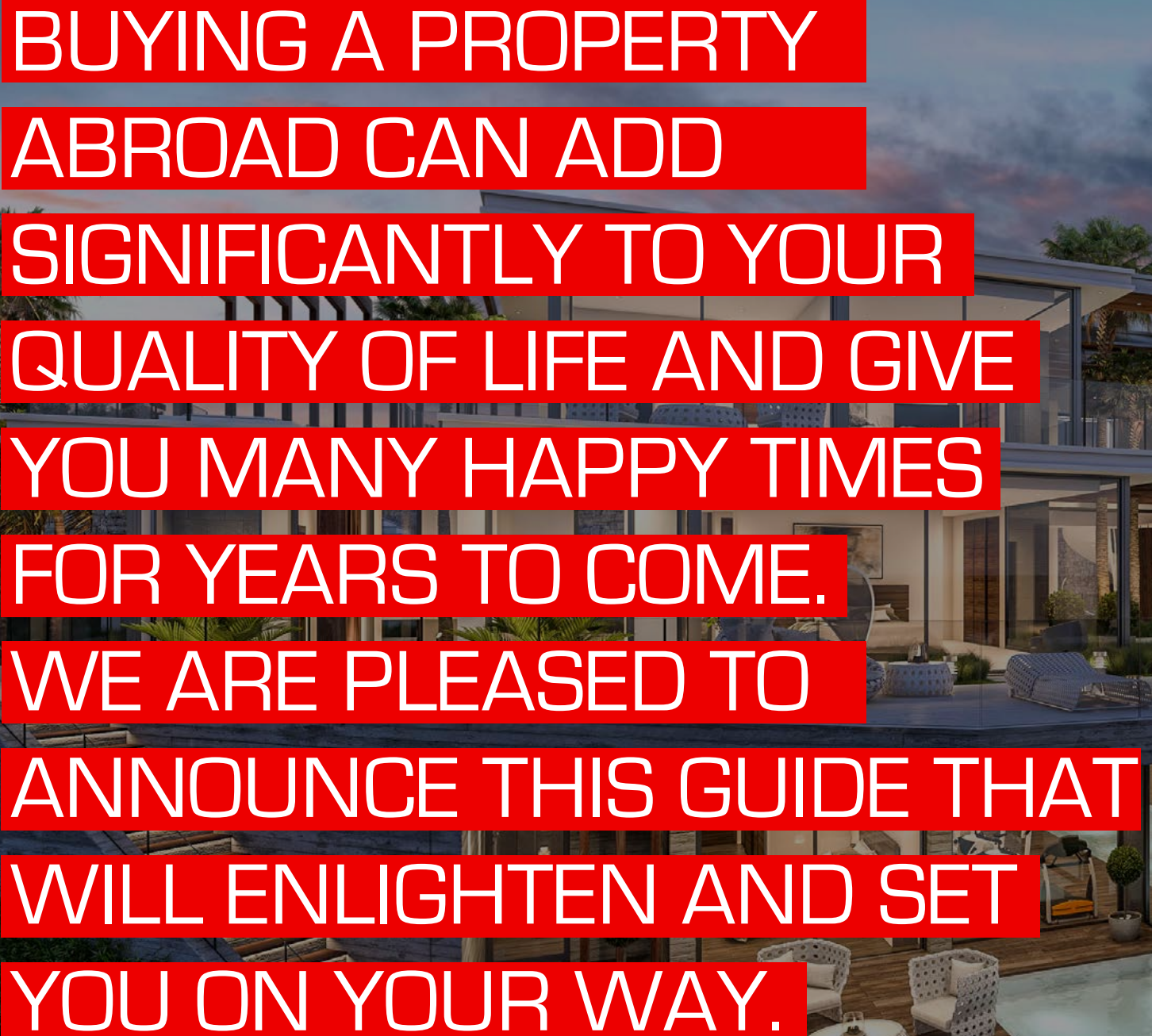
www.charmingmarbella.com

info@charmingmarbella.com

(+34) 630 606 005

(+34) 679 031 422

**C/ Nuestra Señora de Gracia, N°26 Bajo,
29602 Marbella. Spain.**

A modern, multi-story house with large glass windows and a wooden deck with a swimming pool. The house is illuminated at dusk, and the sky is a mix of blue and orange. The text is overlaid on the image in white, bold, uppercase letters, arranged in ten horizontal bars.

BUYING A PROPERTY
ABROAD CAN ADD
SIGNIFICANTLY TO YOUR
QUALITY OF LIFE AND GIVE
YOU MANY HAPPY TIMES
FOR YEARS TO COME.
WE ARE PLEASED TO
ANNOUNCE THIS GUIDE THAT
WILL ENLIGHTEN AND SET
YOU ON YOUR WAY.





CHARMING MARBELLA

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C/ Nuestra Señora de Gracia, N°26 Bajo, 29602 Marbella
info@charmingmarbella.com
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Ramon Gomez Serna 14, 29602 Marbella.
Tel.: (+34) 952 863 819
WhatsApp: (+34) 603 366 979