

TAX ALERT

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Spanish Wealth Tax: Supreme Court Extends the Personal Income Tax-Wealth Tax Joint Limit to Non-Residents

The Spanish Supreme Court has issued two significant rulings (29 October and 3 November 2025) confirming that **non-resident individuals may also rely on the joint Personal Income Tax (PIT)–Wealth Tax (WT) limitation** traditionally available only to Spanish tax residents.

Until now, the Wealth Tax Act restricted this cap to taxpayers subject to WT under the personal obligation regime, excluding non-residents who own assets located in Spain.

A discriminatory distinction contrary to EU law

In both judgments, the Court concludes that denying non-residents access to the limitation breaches the **EU free movement of capital**, as it results in a more burdensome tax treatment purely based on residence.

The Court underlines that, for Wealth Tax purposes, **residents and non-residents are in a comparable position**: the taxable event is the ownership of assets, regardless of the taxpayer's personal or family circumstances.

The cases decided by the Court

Both decisions relate to Belgian residents who owned real estate in Spain and filed Wealth Tax under the real obligation regime. Their claims for refund—submitted after voluntarily applying the joint limit—were rejected by the tax authorities. The Balearic High Court ruled in their favour, and the Supreme Court has now upheld those judgments.

The Supreme Court's reasoning highlights that:

- The fact that a taxpayer is not subject to Spanish PIT does not justify excluding them from a mechanism designed to prevent **confiscatory outcomes** when PIT and WT interact.

- The restriction imposed on non-residents is **neither necessary nor proportionate**, especially given the existence of administrative cooperation and information-exchange mechanisms that allow the Spanish tax authorities to verify foreign income and tax paid.
- The free movement of capital also protects investors resident in **non-EU jurisdictions**, meaning the Court's doctrine has a potentially broad scope.

Practical implications

These rulings allow non-resident taxpayers to:

- **Review non-prescribed Wealth Tax filings** and assess whether the limitation could reduce WT liability.
- **Seek refunds** where the exclusion of the limitation resulted in an excessive tax burden.

Unresolved issues

The Court did not specify **how the limitation must be computed** when the taxpayer's income is taxed abroad. This raises several practical challenges:

- determining which foreign income and tax concepts are comparable to Spanish PIT,
- establishing evidentiary standards for documentation, and
- addressing the interaction with double tax treaties.

Given these uncertainties, **specialised analysis will be essential** to apply the limitation correctly and to support potential refund claims.

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