

PRIVATE WEALTH PORTFOLIO SPAIN

TAX INFORMATION NOTICE

INTRODUCTION

This guide has been designed to provide general information to Spanish residents on the tax treatment of unit-linked life assurance policies in Spain. Please note that this document should not be taken into account on its own and the information provided here should be interpreted in conjunction with the general and specific terms and conditions of the contracted product. The information presented in this guide does not constitute any tax or legal advice, is not to be acted on as such and may be subject to future changes without notice. Utmost PanEurope dac ("Utmost PanEurope") strongly recommends that, before taking any action related to the product, you seek specific professional advice from a tax or legal adviser who knows your personal circumstances.

For the purposes of this document, it is understood that policyholders who subscribe a unit-linked life assurance policy and/or its beneficiaries, as applicable, will be resident in Spain for tax purposes when the relevant taxable event occurs.

1. TAXATION IN IRELAND

Ireland is one of the most important financial centres of the European Union and home to a large number of insurers. Life insurance companies in Ireland such as Utmost PanEurope have the following tax advantages for the policyholder:

- › the growth generated by the investment portfolio of the policy is not subject to taxation in Ireland (as long as the policyholder is not considered resident in Ireland for tax purposes)
- › capital gains realised through redemption or payment of the insurance benefit to the beneficiaries are also exempt from taxation in Ireland
- › all the asset management, custody and administration commissions of the policy are exempt from VAT in Ireland, which is the place where the service is provided for the purpose of this tax. This represents a significant saving for the investor in comparison with other jurisdictions.

Additionally, as Utmost PanEurope is based in Ireland, it benefits from a large number of double taxation agreements signed by the Republic of Ireland with other countries of the European Union and the rest of the world.

2. TAXATION IN SPAIN

Liability to taxation in Spain is residence based. Therefore, it is necessary to understand where the policyholder and/or the beneficiaries of the life assurance policy, where applicable, are resident to determine their potential tax liabilities in Spain.

Additionally, Spanish taxation can also be triggered if there are any Spanish situs assets, irrespective of the taxpayer's residency. Spanish situs assets are those assets or rights that are located, could be exercised or have to be fulfilled in Spanish territory.

In general terms, Spanish resident individuals are taxable in Spain on a worldwide basis whereas non-Spanish residents are only taxed based on their Spanish income and gains, Spanish situs assets, etc. but there might be some exceptions in certain circumstances (i.e. special tax regime).

Unit-linked life assurance policies can be subject to Spanish tax under different scenarios, depending on whether or not each taxable event described below takes place.

Please note that the rules detailed in this document refer to the common territory in Spain, however different rules would apply in the Autonomous Communities of the Basque Country and Navarre, albeit in general terms, their laws establish similar taxation criteria.

3. TAX RESIDENCE IN SPAIN

Taxpayers in Spain will be classified as either Spanish residents or non-Spanish residents and since there is no partial or split-year treatment in Spain, this tax status will be applicable for the whole tax year (i.e. calendar year).

An Individual is considered Spanish resident if **any** of the following circumstances apply:

- › they spend more than 183 days in Spain in a calendar year, or
- › their centre of economic interest is in Spain (directly or indirectly), or
- › their centre of vital interest is in Spain. This is if the spouse and/or minor dependent children live in Spain, the individual will be deemed Spanish resident irrespective of the number of days spent in Spain in a given tax year. This presumption accepts proof of the contrary (e.g. a tax residency certificate issued by the competent Tax Authorities of another country).

It is considered that Spain will be someone's centre of economic interest if most of their assets are located in Spain or if most of their income/gains are generated in Spain, in comparison with each other country in the world.

A company is considered to be resident in Spain if **any** of the following circumstances apply:

- › it is incorporated in accordance to Spanish laws, or
- › its registered office is located in Spain, or
- › its effective head office is deemed to be in Spain (i.e. a company's head office is in Spain when its business activities are managed and controlled from Spain).

4. TAXATION IN SPAIN OF LIFE ASSURANCE POLICIES

TAX ON THE PREMIUM

Currently, life assurance Policies are exempt from Insurance Premium Tax in Spain.

A. INDIVIDUAL POLICYHOLDERS REQUIREMENTS FOR INCOME TAX DEFERRAL

In Spain, income from life assurance Policies¹ qualifies as savings income subject to Spanish Personal Income Tax (IRPF for its acronym in Spanish) when the policyholder matches with the beneficiary. As a general rule, the IRPF Act² grants a tax deferral regime for the accumulated gains of all types of life insurance, both unit-linked and others, until there is a surrender from the policy.

However, in order to apply this tax deferral regime, under the IRPF Act³, in the specific case of life assurance Policies in which the policyholder assumes the risk of the investment (i.e. unit-linked policies), one of the following two circumstances A or B must be met:

- A. that the policyholder is not granted the power to amend or influence the investments linked to the policy, or
- B. that the policy's mathematical provisions are invested in either:
 - i. shares or participations in collective investment institutions (CIIs), predetermined in the life assurance contract, provided that they are CIIs adapted to Spanish legislation⁴ on collective investment institutions or covered by Directive 2009/65/EC⁵ (known as the UCITS Directive for its acronym in English)⁶, or
 - ii. baskets of assets shown separately in the insurer's balance sheet, if said baskets of assets comply with **all** the following requirements:
 - › the determination of the assets comprising each basket of assets shall at all times be the responsibility of the insurer who, for these purposes, shall be completely free to choose the assets, only subject to generally defined criteria relating to the risk profile of each basket of assets or any other objective circumstances
 - › the investments of each basket of assets must be done in assets that meet the requirements established in Article 89 of Royal Decree 1060/2015, of November 20, on organisation, supervision and solvency of insurer and reinsurer entities, which establishes the different investment rules for insurer and reinsurer companies. Under no circumstances these can be invested in real estate assets or rights.

¹ With the exception of insurance that should be taxed as employment income in the framework of a retirement coverage.

² Law 35/2006, of November 28, on the Income Tax of Individuals and partial modification of the Company Tax Law, Income of Non-Residents Law and Wealth Tax Law, applicable in the common territory of Spain. The regional laws of the Basque Country and Navarra establish similar criteria.

³ Article 14.2.h) of Law 35/2006.

⁴ Law 35/2003, of November 4, on Collective Investment

Institutions (CIIs).

⁵ Directive 2009/65 / EC, of the European Parliament and of the Council coordinating the laws, regulations and administrative provisions on certain undertakings for collective investment in transferable securities (UCITS).

⁶ This would include CIIs registered with the CNMV, harmonised or not, as well as non-harmonised CIIs with authorisation to be distributed in Spain through their registration in the CNMV registry.

- These requirements are deemed to be met for those baskets of assets which follow an Investment Strategy that replicates a stock or fixed-income index representative of any official secondary stock market of the European Union.
- The policyholder will only have the power to choose, among the different baskets of assets, in which one the insurer should invest the mathematical provision of the policy, but in no way may intervene in the determination of the specific assets in which, within each separate basket, such provisions are invested.

In these Type B contracts, the policyholder may choose, in accordance with the policy specifications, between the different collective investment institutions or separate baskets of assets, expressly designated in the policy, without being able to create specifications for each policyholder.

These conditions must be met from the policy's inception and during the whole life of the policy in order to provide tax deferral in Spain.

The unit-linked life assurance product Private Wealth Portfolio Spain offered and designed by Utmost PanEurope complies with all the requirements above and therefore, benefits from deferred taxation for Spanish Personal Income Tax purposes until a total or partial surrender takes place, or until the policyholder collects the policy's survival benefit as a beneficiary, where applicable.

WEALTH TAX

For Spanish residents, Wealth Tax is payable based on the net value of the taxpayer's worldwide assets as at 31 December each year. In general terms, there is a personal tax-free allowance of €700,000 and an additional allowance of up to €300,000 for the value of the main home. However, the different Spanish Autonomous Communities have competences to establish different limits for this purpose. Anything exceeding these thresholds will be subject to Wealth Tax in Spain.

There are different rules established in the law in order to determine the value to be considered for each category of assets. According to the current rules, applicable from July 2021, life assurance policies are considered for Wealth Tax purposes based on their surrender value as of 31 December each year. However, for those cases in which the policyholder does not have the right to fully surrender the life insurance policy as of 31 December each year, the policy will be considered for Wealth Tax purposes based on the value of the mathematical provisions of the policy as of 31 December⁷.

As previously mentioned, in Spain, the regulatory competence to modify certain aspects of Wealth Tax (e.g. tax-free allowance, Wealth Tax rates, reliefs, etc.) has been transferred to the Autonomous Communities and consequently most of them have indeed changed some of these aspects during the last tax years.

For example, there is currently a 100% Wealth Tax relief applicable in Madrid which means that no Wealth Tax is payable in this Spanish Autonomous Community, irrespective of the taxpayer's net wealth. Therefore, the specific case should be analysed on annual basis based on the residency of the policyholder and the applicable Wealth Tax rules of such Autonomous Region.

From 1 January 2023, the Spanish government introduced a new temporary tax complementary to Wealth Tax, known as Solidarity Tax for High Net-Worth Individuals. This new Solidarity Tax is levied on the ownership of net assets with value exceeding €3 million (Spanish residents can apply a €700,000 reduction on the taxable base), is accrued on 31 December each year and is only applicable for tax years 2022 and 2023 (albeit it can be extended in the future).

The rates range from 1.7% to 3.5% and due to its complementary nature, any Wealth Tax paid may be deducted from the final Solidarity Tax bill.

INCOME TAX

All positive or negative income derived from the total or partial surrender of a life assurance policy by the policyholder is considered as income from movable capital and thus, subject to tax in Spain⁸. The taxable income amount will be determined by the difference between the sum collected by the policyholder and the amount of the premiums paid and will be included in the taxpayer's savings base for Personal Income Tax purposes.

TAXABLE BASE	TAX RATE
€0.00 - €6,000.00	19%
€6,000.01 - €50,000.00	21%
€50,000.01 - €200,000.00	23%
€200,000.01 - €300,000.00	27%
€300,000.01 and greater	28%

In principle, any loss may be compensated in full with other positive savings income generated in the same tax year or in the following four years and, in accordance with the applicable regulations from 2018, with the positive balance of any capital gain with the limit of 25% of said positive balance.

⁷ Article 17.1 Law 19/1991, of June 6, on Wealth Tax.

⁸ Article 25.3 Law 35/2006

WITHHOLDING TAX

Utmost PanEurope is required to calculate and deduct Spanish withholding tax on the positive income obtained by the policyholder at an established fixed rate, currently at 19% when there is a surrender from the policy. This tax withheld will be paid in favour of the Spanish Tax Authorities through the insurer's tax representative in Spain. The policyholder will be solely responsible for the payment of any additional tax due through their Spanish Personal Income Tax return, if applicable, for any income and gains exceeding €6,000. Said deductions will be considered for the policyholder as payment on account of the Personal Income Tax or, as the case may be, of the Corporation Tax and will be deducted from the total amount to be received. Given the above, when a Spanish resident policyholder makes a surrender from the policy, the amount to be received from Utmost PanEurope will be net of Spanish withholding tax.

INHERITANCE AND GIFT TAX

Spanish Inheritance and Gift Tax rules can be quite complex and will depend on:

- › where the beneficiary is resident
- › where the donor/deceased is resident, and
- › where the assets to be inherited/gifted are located.

Additionally, it is important to understand that the tax rates and some other elements such as tax-free allowances, reductions, deductions and reliefs may vary from one Spanish Autonomous Community to another, as they have competences transferred to modify these aspects. Therefore, each case has to be analysed individually considering the particular circumstances. Spanish Inheritance and Gift Tax rates are progressive and will be determined based on the personal circumstances of each beneficiary (e.g. amount received, beneficiary's pre-existing wealth and the relationship between the beneficiary and the donor/deceased).

The beneficiary of an inheritance or a lifetime gift will be the taxpayer for Spanish Inheritance and Gift Tax and they will be solely responsible for submitting the corresponding tax return, where required.

TAXATION OF DEATH BENEFITS

In case of death of the relevant life assured that, in accordance with the terms and conditions of the policy, triggers the payment of the death benefit, liability to one or another tax in Spain will be determined by the following criteria:

- › If the beneficiary of the policy is not the same person as the policyholder, the death benefit will be subject to Spanish Inheritance and Gift Tax (in the form of inheritance) for the Spanish resident beneficiary, who will be the taxpayer.
- › If the beneficiary of the policy is the same person as the policyholder, the accumulated growth in the policy (difference between the value of the survival benefit and the premiums paid by said policyholder) will be subject to Spanish Personal Income Tax for the Spanish resident beneficiary, who will be the taxpayer.

In the event that the insurance benefit is subject to Spanish Inheritance and Gift Tax, Utmost PanEurope will not withhold any amount on account of said tax. However, prior to the payment of the benefit, Utmost PanEurope will require the beneficiary to provide evidence that the payment of the Inheritance and Gift Tax has been made.

TAXATION OF SURVIVAL BENEFITS

For mixed policies, in case of survival of the life assured that, in accordance with the terms and conditions of the policy, triggers the payment of the survival benefit, liability to one or another Spanish tax will be determined by the following criteria:

- › If the beneficiary of the policy is not the same person as the policyholder, the survival benefit will be subject to Spanish Inheritance and Gift Tax (in the form of a lifetime gift) for the Spanish resident beneficiary, who will be the taxpayer
- › If the beneficiary of the policy is the same person as the policyholder, the accumulated growth in the policy (difference between the value of the benefit and the premiums paid by said policyholder) will be subject to Spanish Personal Income Tax for the Spanish resident beneficiary, who will be the taxpayer.

In the event that the insurance benefit is subject to Inheritance and Gift Tax, Utmost PanEurope will not withhold any tax. However, prior to the payment of the benefit, Utmost PanEurope will require the beneficiary to provide evidence that the payment of the Inheritance and Gift Tax has been made.

⁹ Article 11.8 of Law 27/2014, of November 27, on Corporation Tax.

B. CORPORATE POLICYHOLDERS

CORPORATION TAX

In accordance with the Spanish Corporation Tax regulations, when a legal entity is a beneficiary or has the right to surrender life assurance contracts in which it assumes the investment risk, every year it will be included in the taxable income of the company as the difference between the net asset value of the underlying portfolio of the policy at the end and at the beginning of the tax year⁹.

Therefore, only in the event that the legal entity taking out the life assurance policy lacks the right to surrender and is not a beneficiary of the benefit defined in the policy, could the tax deferral apply on the deemed income generated in the portfolio of assets linked to the policy.

TAXATION OF DEATH BENEFITS

In case of death of the life assured that, in accordance with the terms and conditions of the policy, triggers the payment of the death benefit, liability to one or another Spanish tax will be determined by the following criteria:

- › If the beneficiary of the policy is not the same person as the policyholder, the death benefit will be subject to the Inheritance and Gift Tax (in the form of inheritance) for the Spanish resident beneficiary, who will be the taxpayer
- › If the beneficiary of the policy is the same person as the policyholder, the accumulated gain (difference between the value of the benefit and the premiums paid by said policyholder) will be subject to the Corporation Tax for the Spanish resident policyholder/ beneficiary, who will be the taxpayer.

TAXATION OF SURVIVAL BENEFITS

In case of survival of the life assured that, in accordance with the terms and conditions of the policy, triggers the payment of the survival benefit, liability to one or another tax will be determined by the following criteria:

- › If the beneficiary of the policy is not the same person as the policyholder, the survival benefit will be subject to the Inheritance and Gift Tax (in the form of a gift) for the Spanish resident beneficiary, unless the premium provided by the legal entity must be considered compensation in favour of an employee or administrator, in which case it will be considered employment income (please contact us should you need more information about this particular scenario)

- › If the beneficiary of the policy is the same person as the policyholder, the accumulated gain will be taxed according to the Corporation Tax rules for the Spanish resident policyholder/beneficiary, and will not be subject to Inheritance and Gift Tax.

INFORMATIVE DECLARATION OF FOREIGN ASSETS

Spanish residents who are titleholders, beneficiaries or authorised users of non-Spanish assets and rights in certain categories exceeding €50,000 will be required to submit an informative declaration (Form 720) by 31 March to inform the Spanish Tax Authorities about these foreign assets. The reportable categories include real estate assets and rights, accounts held in financial institutions, all forms of shares and securities, life assurance policies, crypto assets, etc.

While an Utmost PanEurope's life assurance policy issued in Ireland qualifies as a foreign asset and therefore should be in principle reportable under Form 720 when the policyholder is Spanish resident based on the surrender value of the policy as of 31 December, the Spanish Tax Authorities have clarified¹⁰ that if the foreign insurer has already reported the value of such policy following its compliance reporting liabilities in Spain (i.e. annual Form 189), then the policyholder is not required to report this value in their Form 720. Utmost PanEurope reports all Private Wealth Portfolio Spain policies where the policyholder is Spanish resident to assist and simplify our client's reporting requirements in Spain. In any case, we would strongly recommend that you discuss this with your tax advisers in Spain before making a decision in this sense.

5. CALCULATION OF TAXES

When Utmost PanEurope acts as a withholding tax agent in Spain, the amount corresponding to the applicable 19% withholding tax will be deducted from the value of the surrender or, if applicable, from the benefit due and will be paid directly in favour of the Spanish Tax Authorities as a payment on account. We reserve the right to review the tax amounts deducted from your policy and the payments made to the Tax Authorities on a regular basis. In the unlikely event that an insufficient amount has been withheld, we reserve the right to make an appropriate ad-hoc deduction from your policy or from the next surrender payment to correct this situation. If we notice that we have deducted an amount higher than the one due, we will reimburse you for the additional amount without taking into account any possible lost investment opportunity.

¹⁰ Frequently Asked Questions about Form 720 published by the Spanish Tax Authorities (Agencia Tributaria), available from their website.

6. TAX RECLAIM

All taxes and duties related to the policy shall be borne by the policyholder or by the beneficiary, as the case may be, and are deducted from the investment portfolio.

Dividend income, interest income and capital gains in respect of securities held within the investment portfolio, may be subject to withholding tax in the country in which the entity issuing the security is tax resident. Utmost PanEurope may at its discretion provide a service to reduce the withholding tax suffered at source or to reclaim taxes withheld at source. Utmost PanEurope may appoint a third party to assist with carrying out this service. Utmost PanEurope may deduct a charge from the assets comprising the investment portfolio to cover its costs and/or any third-party costs for carrying out the service. Any such costs will be charged at normal commercial rates.

Any taxes so reclaimed will be paid into the policy after the deduction of any costs. Where a tax reclaim amount is received after the policy has been fully surrendered or a death claim has been processed on the policy, Utmost PanEurope will make all reasonable efforts to transfer the relevant monies to the former policyholder or to the beneficiaries, as the case may be.

However, in circumstance where it is not possible or, in Utmost PanEurope's opinion, impracticable to do this, any such monies may be retained by the insurer at its discretion.

7. COMMON REPORTING STANDARD

In accordance with the Common Reporting Standard (CRS) rules, Utmost PanEurope may collect and report certain information to the Irish Revenue Commissioners who are in turn required by Irish law to exchange it with other foreign Tax Authorities.

IMPORTANT INFORMATION

Utmost PanEurope dac does not offer tax or legal advice. Tax liability will depend on the personal circumstances of the policyholder and/or the beneficiary, as the case may be, who should always seek professional advice about their personal tax situation.

This guide is a general summary of taxation of this type of product, based on Utmost PanEurope's knowledge of current Spanish legislation applicable to individual investors and companies as of January 2023. Utmost PanEurope cannot assume any responsibility for its interpretation or for future changes. Both subsequent legal modifications and the interpretations of the legislation by the relevant Tax Authorities and/or the Courts of Justice could affect the tax treatment of the policy.

This information should be read and interpreted jointly with the corresponding policy documents since it has been drafted only as an orientation, and should never be used as a substitute for professional advice.

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www.utmostinternational.com

Calls may be monitored and recorded for training purposes and to avoid misunderstandings.

Utmost PanEurope dac is regulated by the Central Bank of Ireland (No 311420). Its registered office is Navan Business Park, Athlumney, Navan, Co. Meath C15 CCW8, Ireland. Utmost PanEurope dac is a Category A Insurance Permit holder with the Jersey Financial Services Commission.

Utmost Wealth Solutions is registered in Ireland as a business name of Utmost PanEurope dac.

Utmost PanEurope dac is authorised to operate in Spain on a freedom of services basis (FoS) and is duly registered for such purposes with the Register of Insurance and Reinsurance Undertakings of the Spanish General Directorate of Insurance and Pension Funds under the number L0466.

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