

Rentals Junta De Andalucía:

HOLIDAY RENTALS



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Wednesday, 7th March 2018. NERJA



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Work Areas of the Firm

- ✓ Purchase-Sale transactions
- ✓ Inheritance – Wills
- ✓ Non-Residents
- ✓ Accounting
- ✓ Contracts
- ✓ Civil Law
- ✓ Fiscal
- ✓ (International) Taxation
- ✓ Holiday Rentals
- ✓ Criminal Law
- ✓ Labour Law
- ✓ Family Law
- ✓ Procedures
- ✓ Leases

HACIENDA - SPANISH TAX OFFICE

INCOME AND EXPENSES ACCOUNT

- Non- tax residents owners of a property in Spain

Depending on the use of the property, the taxes to which it is liable are:

1 - INCOME CALCULATED ON URBAN PROPERTY FOR PERSONAL USE

The amount to declare will be that resulting from applying the following percentages to the assessed value of the property as shown on the Property Tax bill (IBI): Different criteria till 2014 and from 2015

- In general, 2%.
- When the assessed value has been revised or modified the percentage will be 1.1%.

Year Income Accrued	2011	2012-2014	2015		2016 y ss	
Tipo impositivo	24%	24,75%	Residentes UE, Islandia y Noruega		Residentes UE, Islandia y Noruega	Resto de contribuyentes
			Hasta 11-07-2015: 20%	Desde 12-07-2015: 19,50%	19%	24%

1 - INCOME CALCULATED ON URBAN PROPERTY FOR PERSONAL USE

- **Form: nº 210**
- **Means of filing: On paper or Electronically**
- **Filing deadline:** during the whole calendar year following the accrual date.
- **Direct debit payment of the tax debt:** In the case of electronic filing, payment can be made by direct debit until 23 December.

Modelo 210 Instrucciones para cumplimentar la autoliquidación

Impuesto sobre la Renta de No residentes sin establecimiento permanente

Importante: todos los importes monetarios solicitados deberán expresarse en euros, consignando en la parte izquierda de las correspondientes casillas la parte entera y en la derecha la parte decimal, que constará de dos dígitos en todo caso.

Las referencias a la Ley del Impuesto y al Reglamento, contenidas en las presentes instrucciones, se entienden efectuadas al texto refundido de la Ley del Impuesto sobre la Renta de No Residentes aprobado por Real Decreto Legislativo 5/2004 (BOE del 12 de marzo), y al Reglamento de dicho Impuesto aprobado por el artículo único del Real Decreto 1776/2004, de 30 de julio (BOE de 5 de agosto).

Obligación de declarar

Esta autoliquidación se utilizará para declarar las rentas obtenidas sin establecimiento permanente por los contribuyentes del Impuesto sobre la Renta de No Residentes.

No estarán obligados a presentar autoliquidación respecto de las rentas sobre las que se hubiese practicado la retención o el impuesto del Impuesto, salvo en el caso de ganancias patrimoniales derivadas del reembolso de participaciones en favor del contribuyente, de acuerdo con lo previsto en los artículos 24 y 25 de la Ley del Impuesto.

Tampoco estarán obligados a presentar autoliquidación respecto de las rentas sujeta a retención o el impuesto del Impuesto, de acuerdo con lo previsto en los artículos 24 y 25 de la Ley del Impuesto.

En particular, subsiste la obligación de declarar en los siguientes casos de rentas sujeta a retención o el impuesto del Impuesto:

- Rentas sujeta a tributación por el Impuesto sobre la Renta de No Residentes.

2 - INCOME FROM RENTED PROPERTIES

- Amount to declare is the **entire amount received from the tenant**.
- To the amount received, if you are taxpayers **resident in another European Union member state or a European Economic Area country**, the **expenses** described in the Law on Personal Income Tax (IRPF) **can be deducted when calculating the taxable base**, as long as **proof** is provided that these **expenses are directly related to income earned in Spain**

Year Income Accrued	2011	2012-2014	2015		2016 y ss	
Tax Rate	24%	24,75%	Residentes UE, Islandia y Noruega	Resto de contribuyentes	Residentes UE, Islandia y Noruega	Resto de contribuyentes
			Hasta 11-07-2015: 20%	Desde 12-07-2015: 19,50%	19%	24%

2 - INCOME FROM RENTED PROPERTIES

- This shall be **used to declare each income sum separately** as well as to declare **several different incomes** obtained in a specific period **as a group**.
- **Several different incomes earned** by the same taxpayer may be **grouped together** so long as they:
 - ✓ correspond to the **same income type code**,
 - ✓ come from the **same payer or different payers**
 - ✓ the **same tax rate is applicable** to them, and
 - ✓ **if they derive from an asset or entitlement**, that they come from the same asset or entitlement.
- The **grouping period will be quarterly** in the case of :
 - ✓ self-assessment with taxes owing, or
 - ✓ annual in the case of self-assessment resulting in zero charge or refunds due.

2 - INCOME FROM RENTED PROPERTIES

- **Form: nº 210**
- **Means of filing:** On paper or Electronically
- **Filing deadline:** depends on the self-assessment result

2 - INCOME FROM RENTED PROPERTIES

Filing Deadline

With taxes owing: within the **first twenty calendar days** of the months of **April, July, October and January** in relation to the **income whose accrual date falls within the previous calendar quarter.**

Direct debit payment of the tax debt: in the case of **electronic filing**, the payment can be paid **by direct debit between the 1 and 15 of the months of April, July, October and January.**

With zero charge: from **1 to 20 January of the year following** the accrual year for the declared income.

With a refund due: as of 1 February of the year following the accrual of the income declared and within a period of four years from the end of the period for filing the return and depositing the withholding. The deadline for filing the self-assessment will be understood to conclude on the date it is filed.

Tax residents owners of a property in Spain

1 - INCOME CALCULATED ON URBAN PROPERTY FOR PERSONAL USE

- The **amount to declare** will be that resulting from **applying** the following **percentages to the assessed value of the property** as shown on the Property Tax bill (**IBI**):
 - In general, **2%**.
 - In the case of **properties** where the **assessed value has been revised or modified: 1.1%**

This **yield** is calculated **once per year**, on **31 December**.

If you have not been the owner of the property during the whole year, or if it has been rented for any period, only the **proportional part** of this amount is declared

- This **yield** is calculated **once per year**, on **31 December**.
- If you have not been the owner of the property during the whole year, or if it has been rented for any period, only the **proportional part**
- **Means of filing: APP, Electronically, By phone or By paper**
- **Filing deadline: July the second** during the year following the accrual date
- **Ways of payment:** Direct debit or Fractioned payment

➤ VAT

3 Possible scenarios and the factor of “ Hostelry Services “

1. **Owner leases to a 3rd party**
2. When you **give the exploitation** of your property as *holiday rental* **to an Agency that deals with everything**
3. When the owner gives the property to the guest, but an agent/broker/real estate acts as intermediary

Depending on our action VAT is applicable or not.

- **Registration under Self Employed workers (Social Security) for Owners of holiday**
 - It is not clear at all.
 - Holiday rental = economic activity
 - Not all economic activities implies the owner to register on Social Security, for it is not a daily activity.
 - Courts have established that it is considered a daily activity when you earn more than the minimum inter-profesional salary
 - It is not the same “**daily activity than periodical activity**”. Although periodical activity, it is necessary that it is your main activity, and it provides a living. This represents another requirement that it is not clearly defined in Law, and Courts equal it to minimum inter-profesional salary.

So, it is not clear at all.

Deductible Expenses

All the **expenses directly related to income earned in Spain** are deductible

- For example: Supplies, Taxes, Community fees, Agency fees, Insurance, Maintenance, Replacement, Depreciation....

All those **expenses must be divided/apportion** among the days the property was **occupied**, **except for** the concepts of advertisements and accountancy.

I. What do we mean by housing for touristic purposes?

- Andalusia (Junta de Andalucía) has exclusive competence for tourism
- Tourists have changed their daily traveling habits: ***A New Way To Travel***



- ***Decree 28/2016***, of 2 February, on Holiday Rentals, and amendment of Decree 194/2010, of 20 April, on houses for tourist accommodation
(entered into force 3 months after its official publication)
- ***Law 13/2011***, of 23 December, on Andalusia's Tourism



All seasonal rentals are considered Holiday Rentals?

II. What does Law (in Andalusia) consider a Holiday Rental?

DEFINITION: Dwellings located within areas of residential use, commercialised with a **monetary compensation** in Andalusia, on a regular basis and for tourism purposes.



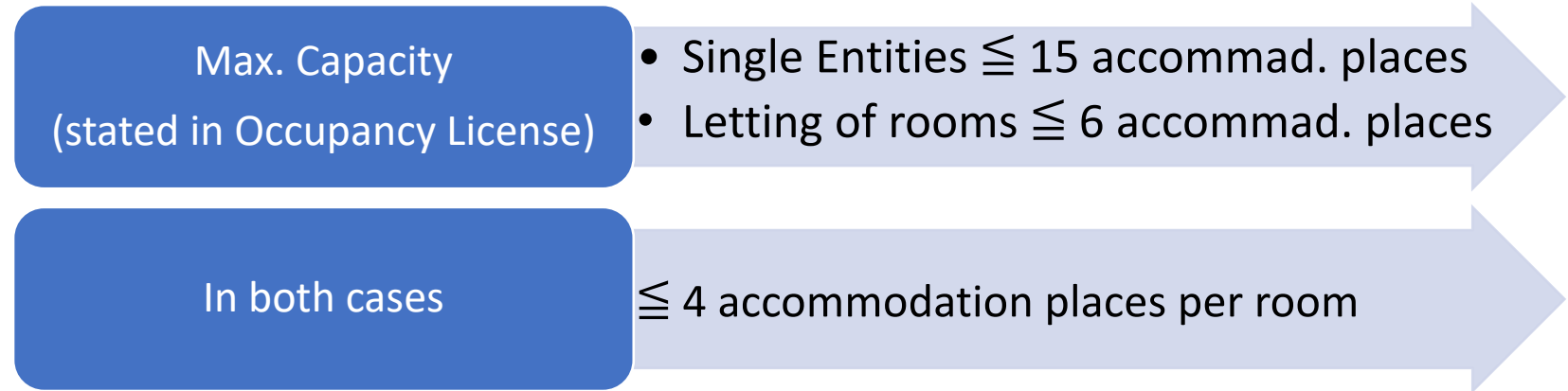
- (On a regular basis & tourism purposes) → through *tourism marketing channels*
- Tourism marketing channels → travel agencies, intermediary companies for tourist services or companies that manage them, and channels that allow the booking of dwellings.

What is not considered a holiday rental?

- for tourism purposes, *without any compensation*
- *rented > 2 months*, continuously and to the same guests
- dwellings *in rural areas*, destined for tourist lodging
- groups of 2+ dwellings, regulated by *Decree 194/2010*

III. Types of holiday dwellings


- Rented as a **single entity**, in its entirety.
- Letting of **rooms** to tourists: **host must reside in** the property



➤ Previous steps to commercialize your holiday rentals:



➤ Requirements:

- 
- Occupancy License & technical/quality requirements
 - Sufficiently furnished and equipped with appliances
 - Stationary cooling in **bedrooms** and **living-room** from May to Sept included.
 - Heating equipment from Oct to April included.
 - First-aid kit
 - Etc...

IMPORTANT CLARIFICATION: for a few months now, Junta de Andalucía is being more restrictive, and requesting that air conditioning be installed for cool air, not allowing fans in general.

➤ Registration at the Tourism Registry of Andalusia

- Host/operator must submit *affidavit* to the Regional Ministry of Tourism and Sport of Junta de Andalucía (otherwise, **very serious administrative sanctions**)

➤ Register to communicate guests' ID to the police

➤ Mandatory

➤ Procedure:

- ☐ Make an **appointment** at the headquarters of: Nerja, Torrox, etc.
- ☐ Information to give in hand (it depends on the particular police station)
- ☐ You will be given a user/password in the police station to access the website, after registration.

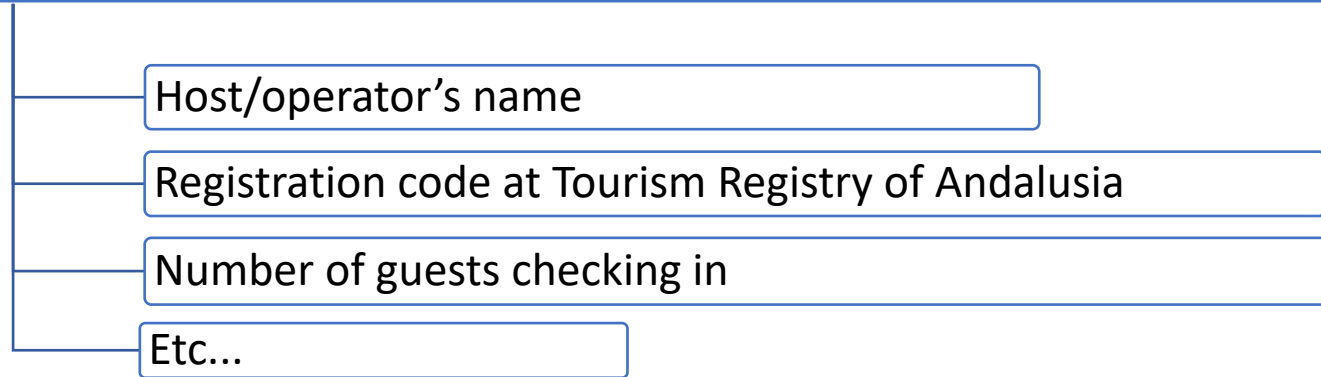
➤ We recommend the following procedure:

- Sign contract with guests at check-in
- Fill in the check-in form
- Report guests' ID to the police (within 24 hours after check-in date)

Sanctions and inspections: if you don't meet all the steps above.

➤ Contract:

CONTRACT given at check-in (keep it for 1 year), including:



- Guests must show their ID at check-in and [fill check-in form](#)
- Check-in time: freely agreed with guest. Otherwise:
 - Default check-in time: from 16:00
 - Default check-out time: until 12:00
- Appointment for Key handover should be made in advance
- Guests must be informed at check-in how to use appliances

Modelo de parte de entrada de viajeros.

Hoja-registro

(Rellenar con mayúsculas)

Datos del establecimiento

NIF:

Parte nº

Nombre del establecimiento:

Municipio:

Provincia:

Sello del establecimiento

DATOS DEL VIAJERO

Núm de documento de identidad:

Tipo de documento: (1)

Fecha expedición del documento: (5)

Primer apellido:

Segundo apellido:

Nombre:

Sexo: (2)

Fecha de nacimiento: (3)

País de nacionalidad: (4)

Fecha de entrada: (5)

_____ de _____ de 20__

Firma del viajero

La recogida y tratamiento se hará de acuerdo con la Ley Orgánica 15/1999, de 13 de diciembre, de Protección de Datos de Carácter Personal y al amparo de lo dispuesto en el artículo 12.1 de la Ley Orgánica 1/1992, de 21 de febrero, sobre Protección de la Seguridad Ciudadana.

Instrucciones de confección del impreso.

(1) Se admiten:

- Para españoles: D.N.I., pasaporte o permiso de conducir.

- Para extranjeros: pasaporte, carta o documento de identidad (para ciudadanos de la Unión Europea, Andorra, Islandia, Suiza, Noruega, Malta, Mónaco y San Marino). Permiso de residencia español en vigor para los extranjeros residentes en España.

Se cumplimentará: **D** = DNI, **P** = pasaporte, **C** = permiso de conducir, **I** = carta o documento de identidad, **N** = Permiso de residencia español, **X** = Permiso de residencia de otro Estado Miembro de la Unión Europea

(2) **F** = sexo femenino, y **M** = sexo masculino.

(3) En el formato AAAAMMDD, al menos se cumplimentará el año de nacimiento. El mes y el día, si se desconocen, irán como 0000.

(4) Nombre del país de nacionalidad.

(5) En el formato AAAAMMDD

➤ **PRICE:**

- Per night, including: water/electricity consumption, cleaning, etc
- Host/operator obliged to ***provide proof of payment*** of services delivered, or advance payment of guests.
- ***Conditions*** concerning tariffs, booking, advance payments, cancellation must be detailed and **advertised** before booking: ***subject to parties' agreement.***
- ***If there is no previous parties' express agreement:***

Host/operator
may require
**max. advance
payment of
30% total
price**

If guest cancels,
may be
**penalized with
max. of:**

50% of advance payment
if cancellation before 10
days of check-in date (e.i:
20 days)

100% of advance payment if
cancellation within 10 days of
check-in date

Force majeure

If operator/host
cancels, must
pay back guest's
advance
payment

+ 30% of total
price of stay if
cancellation
within 10 days of
check-in date

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