

A Guide to Claiming Spanish Inheritance Tax refunds



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Thousands of people are entitled to a refund of up to 100% of the Spanish Inheritance Tax they have paid - **Are you?**

On 3 September 2014 the European Court of Justice (ECJ) ruled that Spanish Inheritance Tax law was discriminatory to non-residents of Spain and in breach of EU law.

This has opened the doors for thousands of people to make a claim for a refund of the Spanish Inheritance Tax they have paid under these discriminatory rules.

We have provided a general guide to making a Spanish Inheritance Tax Refund claim below. This is a general guide only and should not be used as a substitute for specific advice from a specialist Spanish tax lawyer about your individual circumstances.

Why is Spanish Inheritance Tax being refunded?

Under Spanish law when someone dies owning assets in Spain, the beneficiaries of their estate pay Spanish inheritance tax on the amount they have inherited.

Prior to the ECJ's ruling in September, the amount of inheritance tax payable by each beneficiary was governed by either

- i) the rules of the state or
- ii) one of Spain's 17 autonomous regions.

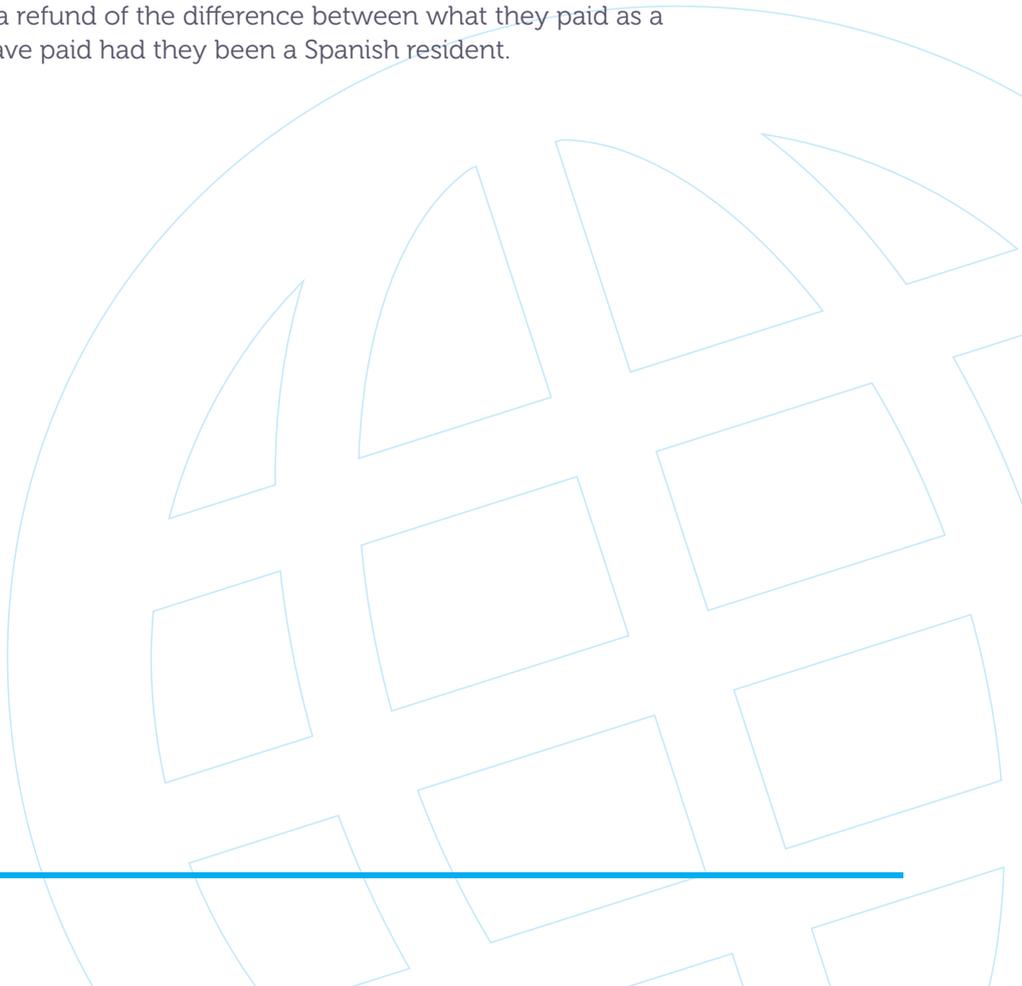
The law of the autonomous regions was not applied to non-residents of Spain and so state law applied to non-resident's instead.

Under the state rules, tax rates were (in most cases) much higher than under the rules of the autonomous regions.

Therefore if either the beneficiary or the deceased person was a non-resident of Spain the state rules would have applied and the beneficiary is likely to have had a higher tax burden than if they or the deceased person were a Spanish resident.

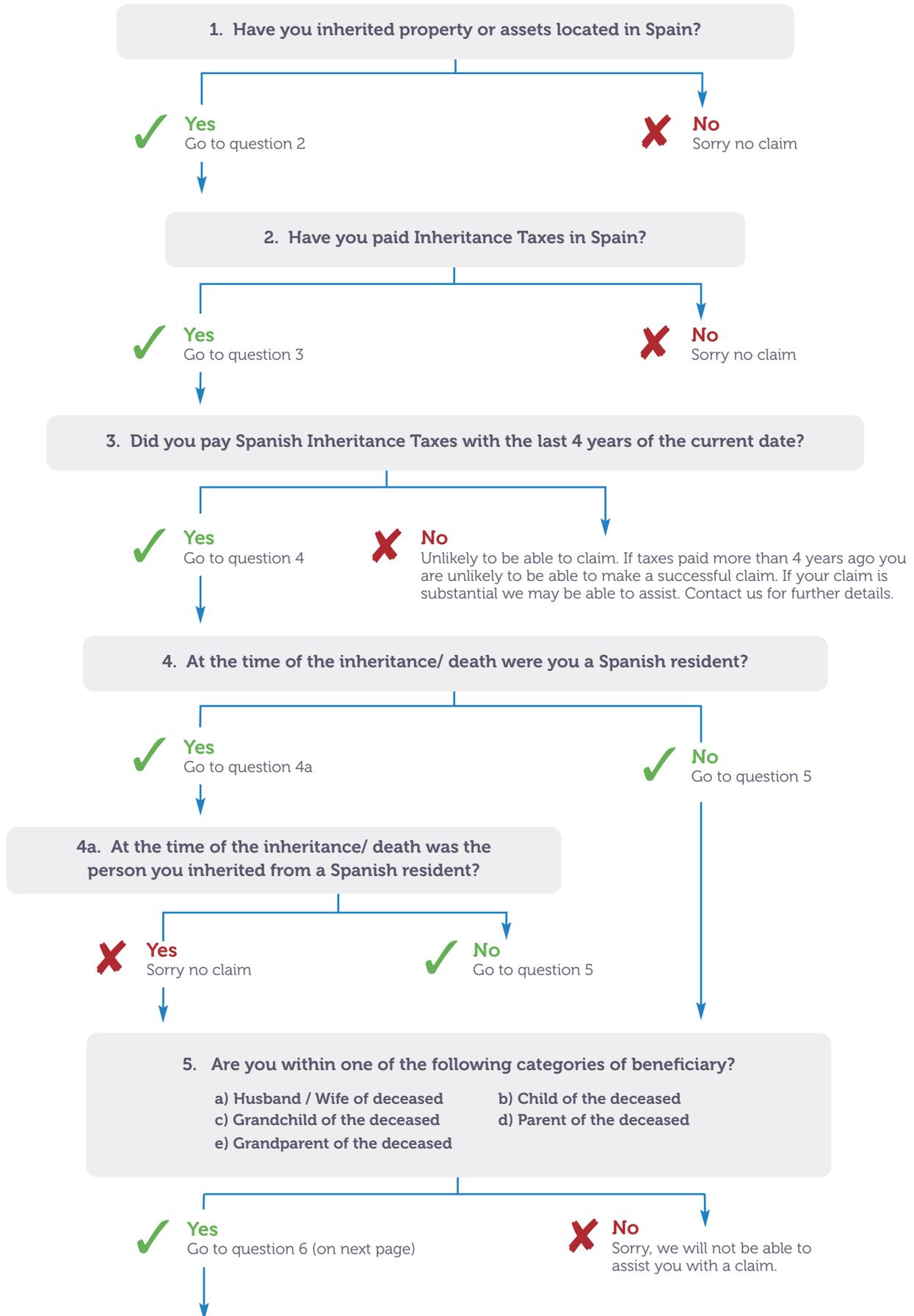
In September 2014 this system was ruled to be discriminatory to non-residents and Spain was forced to change these laws. The new legislation came into effect in January 2015.

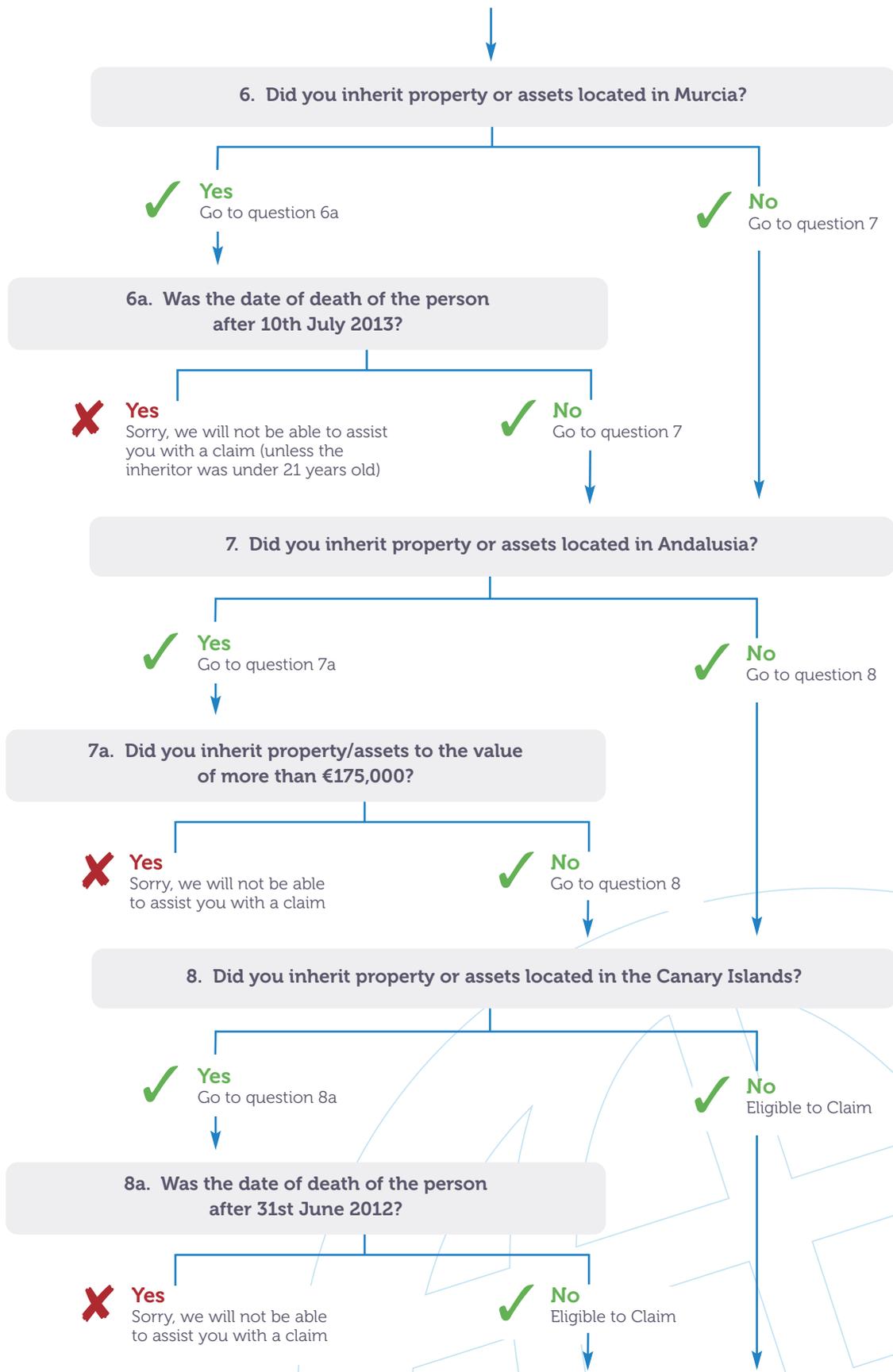
It is therefore now possible for certain beneficiaries who paid Spanish Inheritance Tax under the old, discriminatory rules to claim a refund of the difference between what they paid as a non-resident and what they would have paid had they been a Spanish resident.



Who can make a claim?

Follow the flowchart to see if you could be eligible to make a claim:





Contact Worldwide Lawyers on 01244 470339 or at info@worldwidelawyers.co.uk and start your claim today!

How much will I get?

Non-resident beneficiaries who are eligible for a refund can make a claim for the difference between the money they paid as a non-resident and what they would have paid had they been a Spanish resident.

The amount of the refund may also depend on several additional factors, which include:

- which region's rules would have been applicable to if you and the deceased person were Spanish residents.
- Whether or not the assets inherited included a property.
- If any legal reductions/allowances were applied at the time the tax was paid.

In many cases up to 100% of the Spanish Inheritance Tax paid can be reclaimed as in some regions the tax due could have been zero (such as in Catalonia).

In other regions such Madrid, Valencia, Andalusia, and the Balearic Islands (to name just a few) the Spanish Inheritance Tax that would have been paid by residents would have been a fraction of that paid by non-residents.

Example:

John is a non-resident of Spain and inherited his mother's property in Valencia worth **€600,000**.

The state rules were applied and John paid **€99,296*** in Spanish Inheritance taxes in 2013.

If the regional rules had been applicable John would have paid only **€27,878***.

John will be entitled to claim a refund for **€71,418***
(the difference between the above amounts).

* figures based on specific scenario and can vary from case to case depending on individual circumstances as other factors may be considered.

What is the Procedure?

1. Contact us we will run through the general requirements for the claim with you
2. We will ask you to supply us with a copy of the applicable tax form (Modelo 650, Modelo 651 or Modelo 652)* for analysis to make sure that you are eligible to claim.
3. If you are eligible to make a claim, we will also request copies of the Inheritance Deeds from you (Escritura de Manifestación y Adjudicación de Herencia)*.
4. We will pass your documents to one of our handpicked English-speaking specialist tax lawyers in Spain.
5. The Lawyer will provide you with a free report to confirm that you are able to proceed, the amount of the potential refund and confirm their costs for dealing with your claim.
6. If you are happy to instruct the lawyer they will ask you to provide them with a signed authorization and a Power of Attorney so that they can act on your behalf and make the claim as efficiently as possible.
7. The Lawyer will present the claim to the Spanish Tax Administration in accordance with Spain's national procedure. The exact procedure will depend on how the tax was paid the lawyer will be able to determine this.
8. The Spanish Tax Administration will review your claim and advise the lawyer as to whether the refund is to be granted.
9. If the refund is granted the lawyer will arrange for your refund to be paid to you after deducting their agreed fee.
10. You receive the refund you are entitled to.

How much will it cost to claim?

We can arrange for a No Win No Fee arrangement with the lawyer which means that you will not have to pay for the lawyer's services unless you are successful and receive a refund. The lawyer will usually take a percentage of the amount of the inheritance tax recovered if you win. This amount will be agreed with you at the outset.

What if I don't have the required documents?

You will need to have a copy of the tax form (Modelo) and the Escritura de Manifestación y Adjudicación de Herencia to be able to proceed with your claim.

Only copies of the documents are needed initially however the original documents may be needed in the future for the claim and at very short notice. It is therefore important to know the whereabouts of the original documents.

If you don't have a copy of your documents or don't know if you have the correct documents contact us for further information and we can point you in the right direction.

Is there a time limit?

The general rule is that you have 4 years from when the tax was paid to make a claim for a tax refund. The longer you wait the less time you have in which to claim. It is strongly advised not to delay making your claim.

In certain circumstances it may still be possible to make a claim after the 4 year period has passed, please contact Worldwide Lawyers for further details.

When will I receive the refund?

This depends on the way the tax was originally paid.

If the tax was paid on a voluntary basis, the Spanish Tax Administration is obliged to answer your claim in under 6 months.

If the Spanish Tax Administration made you pay the tax, then the Spanish Tax Administration is obliged to answer your claim within 1 year.

The lawyer will be able to determine the way the tax was paid and advise you in relation to this.

These deadlines may vary if the claim is required to be brought before an Administrative Court.

I think I might be eligible to claim,
what should I do?

Contact us today!

There is only a short window in which refunds for Spanish Inheritance Tax can be claimed and so you should make sure that you **do not delay making your claim.**

As you are only able to submit a tax reclaim once, you should make sure that you are supported by a lawyer who has experience with filing tax refund claims in Spain.

If you think you may be eligible to reclaim overpaid Spanish inheritance tax contact our UK office as soon as possible for a free no-obligation consultation

Call **01244 470339**

or email info@worldwidelawyers.co.uk



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