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Spanish Property Ownership

Beneficiaries of foreign nationals who own property in Spain could end up paying tax in two jurisdictions

When buying a holiday home or retiring abroad the last thing on many people's minds are the tax implications which can prove daunting. The tax system in Spain is very different to the UK, can be unfamiliar, and without proper planning for when you die your beneficiaries could be handed a very large tax bill and be forced to either walk away from the property or take out loans to meet the debt.

In Spain your beneficiary must pay the tax on the amount that they inherit. In the UK your estate could be charged Inheritance Tax (IHT) on your worldwide assets which will include the property in Spain. As the two taxes are not the same one cannot be offset against the other under the Dual Taxation Treaty.

COMMON MYTHS

● **Purchasing/Transferring the property into your children's names**

Using either of these methods you would need to pay tax to keep your own property should your children predecease you. There are also gift tax implications both in Spain and the UK. You would have to trust your child to make a Will leaving the property to you and hope that they do not divorce or fall into serious debt both of which could mean you may ultimately lose your property.

● **A Spanish Will shields you from Spanish IHT**

This is not true and a Spanish Will can often complicate matters as it may conflict with an earlier Will prepared in the UK and does not eradicate IHT. A Spanish Will cannot be varied after death and therefore limits the options of the beneficiaries.

There are changes scheduled to take place on the 17th August 2015 within the EU which will mean that a Will should state the intended succession jurisdiction. It will no longer be possible to assume that your place of domicile will dictate where your Estate is to be dealt with which could result in your foreign property being subject to Probate in the country it is situated in and therefore you may

not be able to leave your assets to whom you wish.

● **Taking out a mortgage will reduce the tax liability on death**

The value of the asset will be reduced by the amount outstanding on the mortgage, however the banks often insist that life policies are taken out which settle the mortgage on death and the beneficiaries are then inheriting the whole of the unencumbered property. Even if there is not a life policy then a substantial debt remains outstanding which will have to be paid before the property can be transferred to the beneficiaries.

● **Don't inform the authorities of a death for 4 ½ years**

Waiting 4 1/2 years before notifying the authorities of a death means that the Statute of Limitations has passed and therefore no tax should be payable. This is tax evasion and you would be committing several criminal offences.

The Wincham Solution

Our solution simplifies matters by assisting Clients to invest their Spanish property into a UK company (Wincham can provide this), of which the clients are both

Directors and shareholders, ensuring they remain in control of the asset whilst eradicating Spanish IHT. Contrary to popular belief there is no 7-10% Property Transfer Tax payable on this transaction. Our method enables clients to utilise Spanish legislation to conveniently own and maintain their holiday / retirement home within a corporate structure in the most tax efficient way. Some Spanish paralegals recommend the use of an Off-Shore Company to own a Spanish property, this type of company is subject to an additional 3% tax burden each year unlike a UK company which is not classed as Off-Shore and therefore does not have this additional 3% Tax to pay.

If you would be interested in receiving your Free Spanish InheritanceTax Illustration and the opportunity to discuss how this method of ownership could benefit your personal circumstances please visit

www.winchamiht.com or scan the QR code below. Alternatively contact one of our advisers on +44 (0)1260 299700 (UK) or 0034 965 830 991 (Spain).

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