

The Spanish Property Inheritance Tax Time Bomb



This information has been provided by Mark Roach, Company Director and Spanish Tax Consultant

NON-DOMICILED property owners in Spain are sitting on a ticking IHT time bomb. Most owners do not understand that their Heirs and their Estate will pay IHT in two jurisdictions: Spain and their Country of Domicile. The reason for this is that in Spain, the individual inheritor is taxed, whereas in other countries, like the UK, it is the estate that is taxed. This could mean that on the death of an owner, the surviving partner, or the owner's Beneficiaries could have a Tax Bill that virtually wipes out the entire Spanish Inheritance. Added to this is the cost of Probate in both countries for the

Inheritors too. Most Lawyers in Spain recommend to owners that having a Spanish Will deals with the problem; this is incorrect, as a Will only deals with the issue when there is a death and does not remove Taxation in Spain. Other advice given is that double Taxation treaties between Spain and the UK help with the Tax being reduced: this is true in identical Taxes but these are not, as in the UK it is the Estate which is Taxed and in Spain it is the Beneficiaries who are Taxed. It therefore should not be assumed that one Tax can be offset against the other, as they are both

totally different taxes on totally different entities. Many owners are suggested to re-finance the property as IHT is not charged on the property amount if there is an outstanding mortgage and loan, but this may end up leaving the Beneficiaries with a huge debt they cannot pay off. Owning a property with your children is a favourite; this is not a good idea either as their share of the property may end being at risk through money or marital issues and if they die before the parents then the parents have to pay Taxes to get the property back too. Our solution to the IHT problem in Spain is for the owner/s to Transfer the property to a UK Private Limited Company. There would not be a 7% Transfer tax in Spain on this transaction, unlike other property transfer transactions. This method may eradicate all Taxes in Spain in the future, in respect of the property, as under EU Law, a UK Company is only taxed in one jurisdiction - the UK - and no taxes are payable

'onwardly' in Spain. A UK Company is not an Offshore Company like Gibraltar or the Isle of Man, as they are charged an annual Tax by Spain of 3% for not being part of the EU Community. Shares in the UK Company can be dealt with in a UK Will and depending on the structure of the Company; the Shares may be exempt from Inheritance Tax in the UK. A further advantage of the Company Structure is that attributable expenses such as Mortgage Interest, Council Tax Bills, Water, Electricity, Repairs and Maintenance can all be Tax Deductible by the Company; this may also include car hire and flights for the Directors. If a purchaser wishes to acquire a property from a seller into a UK Limited company the purchaser can form a UK Limited company using the Wincham Scheme, with the seller as the Shareholder of the company. The seller can attend the Notary and instead of selling the property to the company, he can 'Gift' the property to the company. In

this instance, there would be no 7% Purchase Tax to the purchaser and no 3% retention to the seller. There is a simple Sale of Shares to complete the deal. This is a simple solution, costing less than most probate and legal fees in Spain when there is a death of an owner of property. Wincham Consultants has been providing this service to clients for many years and also operates through a number of Approved Consultants who introduce clients wishing to use this service. Prospective Consultants can attend a two day training course which provides an opportunity to learn how to provide potential Clients with the relevant information regarding both Spanish and UK Inheritance Taxes in respect of Spanish Property Ownership. This is an exciting new opportunity to participate in an emerging and growing market, introducing a concept that can only benefit and protect clients who are failed time and time again by both Spanish and UK



professionals, as they are unable to advise on more than one jurisdiction. The clients' website where they can register for their free illustration demonstrating the IHT liability can be found at www.winchamiht.com

We are exhibiting on Stand 178 at the RTN Expo Lifestyle Show during the 29th & 30th of May next door to Alicante Airport.

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