



**by Mark Roach**  
Company Director and Spanish Tax Consultant.

# The Spanish Property Inheritance **TAX TIME BOMB**

**N**on-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 will 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 advised 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 financial or marital issues and if they die before the parents then the parents have to pay Taxes to get the property back.

Our solution to the IHT/ISD problem in Spain is for the owner/s to invest the property into a UK Limited Company which they would own as Shareholder/s. There would be no 7% Transfer tax payable on this specific transaction unlike other property transactions in Spain. There is also no Capital Gains tax implication in Spain when you invest a property into a UK Limited Company, as the Hacienda has a method of calculating an investment value based on the original purchase price as shown in the Public deed.

This method may eradicate all Taxes in Spain in the future, in respect of the property, as under EU Treaties 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 as

they are charged an annual Tax by Spain of 3% for not being part of the EU.

Shares in the UK Company can be dealt within a UK Will and depending on the structure of the Company; the Shares may be exempt from Inheritance Tax in the UK as well. A further advantage of the Company Structure is that attributable expenses can all be Tax Deductible by the Company and the benefit in kind Tax for Directors of a UK Company which own property abroad has now also been removed.

This is a simple solution costing less than most probate and legal fees in Spain when there is a death of an Owner of the property and requires no NIE numbers for the Beneficiaries to inherit and our unique service is available to all Nationalities including both Residents and Non Residents of Spain.

We have been developing our systems and process for many years as we strive to be the market leader in this type of transaction so we have been researching the transaction for a long period of time. Clients can also be assured when talking to Wincham they are dealing with professionals who are operating in this type of

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business on a daily basis, unlike other professionals who are not, but still advise about the method and due to their lack of understanding and knowledge confuse or put off interested owners from exploring the concept. We find Clients 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 showing the IHT/ISD liability in Spain is [www.winchamiht.com](http://www.winchamiht.com)

Wincham is an International organisation that has been established since 1994 and has offices in both the UK and Spain and within our organisation we have qualified professionals in both jurisdictions.

This information has been provided by Mark Roach, Company Director and Spanish Tax Consultant, Telephone : +44 (0)1260 299 700 or 0034 965 830 991.



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