

Protect your Spanish property

Don't let your dream home get swept away by Spanish inheritance tax. Discover the solution to minimising your liability with Wincham Consultants

Many Spanish-property owners are simply unaware that their beneficiaries and their estate may have to pay inheritance tax in their country of domicile, as well as Spain. The rate of tax is not fixed, but instead determined by the relationship to the deceased, their residency status and their existing wealth in Spain. For example, if the deceased lived in the UK and had worldwide assets in excess of £325,000, then the estate could also be liable for a 40% inheritance tax payable in the UK.

Unfortunately, it is common practice for lawyers and tax advisers who are not conversant with both jurisdictions to advise based on their own, often insufficient, knowledge. As a result, there are many misconceptions about how an individual can minimise his tax liability.

For example, there have been cases where property owners have been advised to prepare a Spanish Will. However, this does nothing to reduce the tax, since this is paid by the person inheriting the asset, and can actually complicate matters and increase legal costs. Instead, it is vital that all British owners of Spanish property have a UK Will dealing with their worldwide assets.

Another mistaken belief is that taking out a mortgage on the property will reduce the tax liability upon death. While it is true that the value of the asset will be reduced by the amount outstanding on the mortgage, the banks often insist that life policies are taken out which pay off the mortgage upon death, and so the beneficiaries are back to inheriting the whole of the unencumbered property. Even if there is not a life policy, then there remains a substantial debt outstanding, which will have to be paid before the property is transferred.

A third fallacy is that the tax can be avoided by passing on the property now. Tax is payable on the gifting of an asset, as well as inheritance, so this only brings the date that it has to be paid forward. Also, once the property is in the names of your beneficiaries, you have to be able to trust that they will not



dispose of or charge the asset and so leave you homeless. In addition, issues such as insolvency, divorce and your beneficiary predeceasing you can also add complications to what appeared to be a simple transaction.

The solution: invest your Spanish property into your own UK company (which Wincham can supply), of which you will be the Director and shareholder, and have total control. Plus, contrary to popular belief, there would be no 7-10% property transfer tax payable on this transaction. Although the use of an offshore company creates an additional 3% tax burden each year, the UK is not classed as offshore. In line with EU treaties, Spain must provide UK companies with the same benefits and opportunities that they allow their own companies, and can not charge the 3% tax. This method enables you to utilise Spanish legislation to conveniently own and maintain

your home within a corporate structure in the most efficient way.

Wincham Consultants provides a friendly and professional service, and is unique in its ability to comprehensively cover their clients' affairs in both jurisdictions. To learn more, and to receive a complimentary Spanish Inheritance Tax illustration, visit the website or scan the QR code below.

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