

A brief review of Wincham Consultants and our services



by
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SINCE WINCHAM has been writing for the RTN we have received many enquiries about our company and solutions to avoid Spanish Inheritance Tax and I have supplied a number of the most popular questions posed by our clients:

WHO HAS TO PAY SPANISH INHERITANCE TAX?

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.

WHO MAY OWN A UK LIMITED COMPANY?

The services we offer are available to both Residents and non Residents of Spain as any Nationality may own a UK Company. Whether you currently own a property in Spain, are about to purchase in Spain, or own the property in an Offshore or SL Company, we have a solution and method to help to transfer your property into a UK Limited Company.

WHAT IS THE CAPITAL GAINS AND TRANSFER TAX WHEN INVESTING A PROPERTY INTO A UK COMPANY?

There is no CGT implication in Spain when you invest a property in Spain 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, plus the 7% paid at purchase, plus the Notary fees, plus indexation for the years the property has been owned. This value is the new investment value into the Company with no CGT in Spain. There is a further benefit to clients who purchased their property before 1997 as before this date there was no CGT in Spain and this allowance will be calculated into the new investment value. The downside is that in 2007 the rules changed: for each day that the property is owned after 1st January 2007, one day is taken off

the Tax free allowance, therefore shortening the Tax free time available for CGT. It is therefore beneficial to utilise this Tax free time now as in the future it will be eroded to zero. CGT will not be applicable in Spain if the owner is a Resident of Spain for Fiscal reasons and over 65 and the property is their main residence. This means that the property can be invested at a significantly higher value with no CGT. This will save future CGT of 19% when the property is ultimately sold. When investing a Spanish property into a UK Company there is no 7% Transfer Tax on the transaction either.

ARE THERE ANY ONWARD COSTS IN RUNNING A UK LIMITED COMPANY?

It is very cost effective to own a UK Company as £500 to £700 a year will cover the maintenance and running costs of the Company including the filing of the accounts. By owning a property in Spain using a UK Company structure, individual owners are not required to submit a Tax Declaration (Return) in Spain for the ownership. Instead the UK Company submits a single Declaration once a year which is submitted and filed at zero, as a UK Company does not pay Tax in Spain. A UK Company does not pay the annual 3% Tax in Spain, as a UK Company is classed as a non resident Company of Spain not Offshore like Gibraltar or the Isle of Man for example. Offshore Companies attract a 3% annual Taxation because these Countries are not part of the EU.

CAN I TRANSFER A PROPERTY INTO A UK COMPANY IF IT HAS A MORTGAGE?

In Spain, a mortgage and a loan are 2 separate items as the mortgage is the charge / guarantee for the loan lent against the property. A Mortgage (Hipoteca) is recorded against the property on a public deed. If the property is transferred to a UK Company then the mortgage stays attached to the property. Once the property is in the ownership of your Company then the loan repayments can be made from the Company bank account. The bank account will be funded by the owners of the Company or from income that is generated from the company. The interest and other expenses can then be offset

against any income to the company, which cannot be done if the property is in the owner's private name.

DOES WINCHAM HAVE THE INFRASTRUCTURE IN PLACE TO DEAL WITH THIS TRANSACTION?

Wincham has offices located in the UK and Spain and our Organisation consists of Gestores, Economistas, Tax Consultants, Chartered Accountants and Members of the Institute of Credit Management who are all part of our team and work on the process and supply support to our clients. You will also notice that we are part of the Association of International Property Professionals and therefore have to have Professional Indemnity Insurance for services both in the UK and Europe which covers our Group of Companies.

WHAT PROFESSIONALS DO I REQUIRE IN SPAIN AFTER COMPLETION?

There is no requirement for Wills in Spain, probate in Spain, Lawyers in Spain or any personal annual Tax Declarations on the property in Spain. You only require someone in Spain to act as the Companies Fiscal representative to submit a ZERO Tax declaration each year; this service we provide to our clients.

CAN YOU SUPPLY ANY ONWARD BENEFITS?

Wincham has invested over £100,000 developing a bespoke online Case Management System for the benefit of all registered clients. This ensures all clients can track the progress of a case by logging into their personal, secure section of our website and viewing copies of all personal, company, bank and Legal documentation. Clients can also keep track of any Taxes or Fees due and view copies of received documentation once paid. Additionally, we are now able to offer a Cash Book facility which records all expenses in respect of the ownership of the property. By ensuring that this simple facility is kept up to date, clients can ensure that the cost of the preparation of the annual accounts for the company is kept to a minimum. An additional benefit of our system is that, should the company be inherited or sold in the future, there is a full record of all transactions, company and property which are available to the new owners.



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