

The Spanish Property Inheritance Tax Time Bomb



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 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 and many lenders will only finance the ownership if suitable life insurance is taken out, so the property is paid for on death and the Tax

still becomes due. 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 Private Limited Company which they would own as Shareholder/s of the Company. Contrary to popular misconception there would be no 7% Transfer tax payable on this specific transaction unlike other property transactions in Spain. There may also be 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 and Spanish Tax Residents who are over 65 when they invest their property into a UK Company do not have any CGT liability in most Regions.

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 in Gibraltar or the Isle of Man as they are charged an annual Tax by Spain of 3% for not being part of the European Union.

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 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. Unfortunately if you own a property in Spain in your own name then you may not be allowed to offset income against expenditure by the Spanish Tax Authorities. 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. Our unique service is available to all Nationalities including both Residents and Non Residents of Spain and can be completed within 2 to 4 weeks if required.

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 this means Clients are dealing with a Company who has been researching the transaction for a long period of time and has an extensive customer base that has used this method and are extremely happy with the service they have received from us. Clients can also be assured when talking to Wincham they are dealing with professionals who are operating in this type

of 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

Wincham is an International organisation that has been established since 1994 helping Clients purchase and own property in Spain using a corporate structure to combat Taxation in Spain. In recent years we have seen a significant increase in the number of people who are concerned about ISD in Spain and are now looking to address the situation to protect their Beneficiaries. Wincham has offices in both the UK and Spain and within our organisation we have qualified professionals in both jurisdictions including Gestors, Economistas, Tax Consultants, Estate Planners, Lawyers, Will Writers, Chartered Accountants, Members of the Institute of Credit Management and a Companies House Formation Agent.

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



Wincham Consultants Limited, Wincham House, Greenfield Farm Trading Estate, Congleton, Cheshire, CW12 4TR, England.
(Wincham Consultants also have offices located on mainland Spain and colleagues on the surrounding islands)
UK Tel: +44 (0)1260 299 700 or Mallorca on 0034 678 047 259. Email: iht.info@wincham.com • Web: www.winchamiht.com

