

# Don't let your Dream Home get swept away by Spanish Inheritance Tax



Mark Roach, Company Director and Spanish Tax Consultant.

**Most owners are not aware that their beneficiaries and their estate may have to pay pay Inheritance Tax both in their country of domicile and in Spain. Spanish law dictates that the beneficiary of your estate must pay tax on the amount that they inherit. The level of tax payable is not a fixed rate and is determined by the relationship to the deceased, their residency status and their existing wealth in Spain. In addition the estate of the deceased could be liable to pay pay Inheritance Tax in their country of domicile. For example if the deceased was UK domiciled and had worldwide assets in excess of £325,000 then the Estate could also be liable for pay Inheritance Tax at 40% payable in the UK.**

## What are the options to minimise the liability?

Unfortunately it is common practice for lawyers and tax advisers who are not conversant with both jurisdictions to advise based on their own knowledge and this is often insufficient. We have known of cases in the past where property owners in Spain have been advised to prepare a Spanish Will to avoid the tax. In fact this does not avoid any tax and it is unnecessary to have a separate Will in Spain. The tax is paid by the person inheriting the asset and therefore the existence of a Will does nothing to minimise this. There are also times when the existence of a separate Will in Spain complicates matters and increases legal costs. It is vitally important that all British owners of Spanish property have a UK Will dealing with their worldwide assets and therefore no other Will is required in any other country. Another misconception is that

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

Finally the most dangerous option that is put forward is to transfer the property to your children or beneficiaries now. The Spanish tax is payable not only on the inheritance of a property but also the gifting of a property so the tax would be paid sooner rather than later. Also once the property is in the names of your beneficiaries then you have to be able to trust that they will not dispose or charge your asset and leave you homeless. Issues

of insolvency, divorce and your beneficiary pre-deceasing you can also add complications to what appeared to be a simple transaction.

At Wincham our solution has been tried and tested for many years and we are constantly updating our processes to ensure that the advice we give is in line with current legislation both in Spain and the UK. Our business is expanding and we have recently opened an office to provide assistance for Spanish Property Owners who originate from Belgium, Luxembourg and the Netherlands.

## The Solution

Quite simply you invest your Spanish property into your own UK Company of which you will be the Director and shareholder and have total control. Contrary to popular belief there would be no 7% Property Transfer Tax payable on this transaction. Our method enables you to utilise Spanish legislation to conveniently own and maintain your home within a corporate structure in the most tax efficient way.

Although the use of an off shore Company creates an additional 3% tax burden each year, the UK is not classed as off shore and in line with EU treaties. Spain must provide UK Companies with the same benefits and opportunities that they allow their own Companies and cannot charge the 3% tax.

**If you would like to know more about our solution and to receive your 'complimentary' Spanish Inheritance Tax illustration please visit [www.winchamiht.com](http://www.winchamiht.com) or scan the QR code below. Alternatively contact one of our advisers on +44 (0) 1260 299700 (UK) or 0034 965 830 991 (Spain).**



MEMBER



Wincham Consultants Limited, Wincham House, Greenfield Farm Trading Estate, Congleton, Cheshire, CW12 4TR England  
Wincham Consultants also have offices located on mainland Spain and associates on the surrounding islands.  
UK Tel: +44 (0)1260 299 700 | Spain Tel: 0034 965 830 991 | Email: [iht.info@wincham.com](mailto:iht.info@wincham.com) | [www.winchamiht.com](http://www.winchamiht.com)