

Are there any advantages in owning a property in Spain in your child's name?

I was recently asked by a client who was buying a property in Moraira on the Costa Blanca whether it was a good idea to place the property in her daughter's name to safeguard against Spanish Inheritance Tax (ISD). This is a suggestion I come across many times as it is often given by Spanish lawyers and advisors as a way to avoid paying this potentially onerous tax. In reality this is not a solution - the strategy does not remove ISD in Spain and it may leave your children with a 40% tax bill to pay in the UK as well.

The suggestion is based on the probability that the parent will pass away before the children. If that does happen then the children will not pay ISD because they own the property already. Are you prepared to take that risk? The alternative scenario is not uncommon and infinitely more problematical. If, heaven forbid, the children die before the parent then the parent has to pay ISD in Spain

to inherit the property back - a property that was originally the parent's.

Another situation worth considering is one where the children do survive the parents but the son or daughter is involved in matrimonial or insolvency issues. This could put their part of the property (or the whole property) at risk. It is also important to remember that all property owners in Spain have to submit a self assessment tax declaration

each year irrespective of whether they are resident in Spain or not. This cost is one which the children would have to pay each year, and if there are multiple owners of the property then a declaration has to be completed by each person on the deeds and each owner has to have an NIE number in Spain as well. If you combine this with one of the scenarios above then life can suddenly become very complicated.

You must also consider the tax liability in the UK. As a British Citizen you are taxed on your estate worldwide and if you purchase a property in Spain for (let's say) €200,000 and place it in your children's name, then in effect you have given them €200,000 in cash to own the property.

In the UK this is treated as a gift, and given that you have logged it with a professional in the UK (like an accountant or lawyer) then the €200,000 could be taxed in the UK at 40% if the parent does not survive more than 7 years after purchasing the property.

Anyone who owns a property in their children's name or jointly with them can in fact request it back. One guaranteed way you can do this without incurring National Transfer Tax on the value of the property (6.5% in the Canarias Region) or possible Spanish Capital Gains Tax is to move the ownership of the property into a UK Limited company. For example, consider a family consisting of mother and father with 2 children, each person in the family

owning a 25% stake in the property. Donating the property into the company and appointing the parents shareholders will give them complete ownership of the assets again. Furthermore, if the children are over 16 years of age, they can be appointed directors of the company if required.

EU directives then apply, so once the property is owned by the non-Spanish resident company national taxation in Spain is completely removed. It is then much more advantageous to control shares and assets in the company by drafting a UK will covering your worldwide assets. Unlike in Spain, there is no IHT payable between husband and wife in the UK and all Spanish Inheritance Tax li-

ability has been completely removed. Furthermore, on the eventual death of both parents there will still be no ISD liability, only a requirement to pay IHT in the UK which may be present in any case if the deceased is a UK domiciled individual.

There may be other tax advantages to owning your Spanish property in a UK Company. The website where you can find out more and register for a **free personal illustration** demonstrating the ISD liability of your beneficiaries can be found at www.winchamih.com

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

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