

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

I was recently asked by a client who was purchasing a property in Moraira whether she could place the property in her daughter's name to safeguard against Spanish Inheritance Tax (ISD). This is a suggestion I come across many times, given by Spanish lawyers and advisors, as a method to avoid paying Spanish ISD. In reality this is a popular misconception masquerading as a solution. This 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 reason behind the suggestion is based on the probability the parent will pass away before the children. If that does happen, the children will not pay ISD because they own the property already and 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, the parent then 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 very 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 is then a cost which the children 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. If you combine this with one of the scenarios above then life can suddenly become very complicated.

You must also consider the tax liability back in the UK. As a British Citizen you are taxed on your estate worldwide. If you purchase a property in Spain for (let's say) €200,000 and you 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 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 a 7% Transfer Tax on the value of the property or possible Capital Gains Tax (both in Spain) 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, and each person in the family owning a 25% stake in the property. Donating the property into the company and appointing the parents the shareholders of the company 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.

EU directives then apply, so once the property is owned by the UK Limited company, taxation in Spain is completely removed. It is much more advantageous then to control shares and assets in the company by drafting a UK Will covering your worldwide assets. In a marriage there is no IHT payable between husband and wife in the UK.

For further information visit www.thinkSPAIN.com/ihf or call +44 (0)1260 299 700 quoting thinkSPAIN.

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



BRAINTEASERS

1. Take the letters ERGRO. Put three letters in front of it, and the same three letters behind to form a common English word.

2. What number gives the same result when it is added to 1.5 as when it is multiplied by 1.5?

3. What do the words below have in common?

**ADAM CLAIM GALL BUOY
FOND RAMP**

4. Which of the following words is the odd-one-out?

IBIS IBEX ORYX SIKA ZEBU

5. Which of these numbers is the odd-one-out?

43 26 50 37 17 82

6. Rearrange the letters of the following phrase to give the name of a U.S. state:

VIEWING A STIR

6. WEST VIRGINIA
5. 43 - all the others are 1 greater than a square.
4. THE IBIS IS A BIRD, THE OTHERS ARE MAMMALS.
3. EACH CAN HAVE AN ANT APPENDED TO FORM A NEW WORD.
2.
1. UNDERGROUND

ANSWERS

SU DO KU - EASY

2		5		3	9		
	3	9		4	1		2
				5		8	6
7	9		5		4		
	1		7		2		6
		8		6		9	5
4	7		1				
6			3	8		2	4
		3	2			1	7

SU DO KU - HARD

			5		9		
							2
	1		9	2			4
	6			4		8	
	4						5
	5	7			2		
8			3	1			6
7							
		3		6			

THE LOVE DRESS

A woman stopped by, unannounced, at her son's house. She knocked on the door then immediately walked in. She was shocked to see her daughter-in-law lying on the couch, totally naked. Soft music was playing, and the aroma of perfume filled the room. 'What are you doing?' she asked. 'I'm waiting for Justin to come home from work.' The daughter-in-law answered. 'But you're naked!' the mother-in-law exclaimed. 'This is my love dress,' the daughter-in-law explained. 'Love dress? But you're naked!' 'Justin loves me to wear this dress,' she explained. 'Every time he sees me in this dress, he instantly becomes romantic and ravages me for

hours.' The mother-in-law left. When she got home she undressed, showered, put on her best perfume, dimmed the lights, put on a romantic CD, and lay on the couch waiting for her husband to arrive.. Finally, her husband came home. He walked in and saw her lying there so provocatively. 'What are you doing?' he asked. 'This is my love dress,' she whispered, sensually. 'Needs ironing,' he said, 'What's for dinner?'

THE FRIDGE

I thought I could hear onions singing Bee Gee songs in my fridge, but it was just chives talking!