



DEALING WITH SPANISH ASSETS UPON DEATH

In dealing with the Spanish assets of a deceased person, we have to ascertain whether or not they died with an English will, Spanish will or other will or if they died intestate, that is without a will. Once we have ascertained if there is a will or not, we can decide how best to proceed in order to realise the Spanish assets on behalf of the beneficiaries or surviving relatives.

Set out below is some information on the work that will be carried out on your behalf depending on the will signed. The information is aimed at UK nationals who die in Spain or have assets in Spain and die elsewhere. In the event that there is a conflict between the beneficiaries then further legal advice is necessary.

A) Spanish Assets. No Spanish will. English Will only.

In the event that a valid English will only has been signed and there are Spanish assets then it will be necessary to obtain a Grant of Probate issued by the High Court in England & Wales.

A list of worldwide assets and their value will be required in order to apply for the Grant of Probate and to calculate the UK inheritance tax liability, if any. We can assist with any Spanish valuations. Once the Grant of Probate is obtained and the UK inheritances taxes settled we can deal with the Spanish assets.

We would require an original death certificate and original Grant of Probate both stamped with the Apostile of The Hague at the Foreign & Commonwealth office. Once we receive these original documents we can then arrange official translations into Spanish and in order to act for the heirs in Spain we would require a power of attorney from each heir. A power of attorney is a document that each heir would sign before a notary in Spain or the UK authorising us to act for them in Spain.

B) Spanish Assets. Spanish Will.

Once we have been provided with a copy of the death certificate from the Funeral Directors we will visit the Births, Deaths & Marriage Registry to obtain a

certificado de ultimas voluntades also known as a certificate of last wishes. This certificate will confirm whether or not the deceased person signed a Spanish will and where the will was signed. If a Spanish will was not signed then our next step will be as set out below under No Spanish will.

With the certificate of last wishes we will contact the Spanish Notary where the last Spanish will was signed and ask for a *copia autorizada*, an authentic copy of the will. We will require a Power of Attorney from the beneficiaries of the will to obtain this or at least one of the beneficiaries will need to visit the Spanish Notary in person with their passport.

Once we have the death certificate, certificate of last wishes and authentic copy of the Spanish will (if signed) the next step is to obtain a list of all the Spanish assets with their values.

Spanish bank accounts

If there are bank accounts in the estate of the deceased person then we will write to the bank and obtain a certificate from the bank confirming the amounts in the deceased person's account. If it is a joint bank account then the bank are likely to freeze the accounts until the Spanish estate has been settled. However they usually arrange to pay all the direct debits on the accounts and will release funds from the bank accounts to pay Spanish inheritance taxes and legal fees.

Spanish property

In order to ascertain the taxable value of the property we will require a copy of the deeds of the Spanish property also known as the Escritura de Compraventa and a receipt of the Town Hall rates known as the IBI. Impuesto de Bienes Inmuebles.

Spanish car

We will require a copy of the permiso de circulation of the car and of the fiche tecnica, both of these documents are usually found in the car.

Once we have the valuation of the assets we will provide you with an inheritance tax calculation and arrange an appointment with the local Notary to sign the deed of acceptance of the inheritance. This is a document setting out the date of death of the deceased and lists all the Spanish assets and confirms who the assets have been left to.

If we are using a Power of Attorney from the beneficiaries then we can sign the deed on their behalf. If not then we will require the beneficiaries to come to Spain to sign the deed.

After the deed has been signed we will arrange to collect it, pay the notary fees and then pay the Spanish inheritance taxes. If there are sufficient monies in the

Spanish bank accounts then we can arrange for the bank to settle the inheritance taxes otherwise these taxes must be settled by the heirs.

In order to pay the inheritance tax in Spain on your behalf we will require NIE numbers from you, which are Spanish tax numbers. These can be obtained by using a Power of Attorney or by the beneficiaries applying in person for these at their nearest Spanish local Police station (*Policia local*). It is a good idea to apply for these as soon as possible.

When the inheritance tax liability has been paid and the tax form stamped we can arrange either the sale or transfer of the assets into the beneficiaries names at the Land Registry. The Spanish banks on receipt of a copy of the Deed of Inheritance and the stamped inheritance tax form will transfer the bank accounts into the beneficiaries' names. Equally if there are cars, a visit to the traffic office will be required to change the car ownership.

C) Spanish & Worldwide Assets. Spanish & English Wills.

Much will depend on where the deceased person was registered for tax purposes or where they spent most of the year and where they were habitually resident. Once this has been ascertained then we can deal with the estate on the beneficiaries behalf according to the wills available.

If there are assets located around the world, than the estate and heirs maybe liable to pay inheritance where the assets are located. There is a double tax treaty between Spain and the United Kingdom so inheritance tax on the same assets will not be paid twice although depending on the tax status of their heirs, they may have to top up the inheritance tax payable locally.

D) Spanish Assets. No Will.

As in part C above we will have to determine where the deceased person was registered for tax purposes and where the assets are located. Once we have this information then we can ascertain where inheritances taxes will be due.

If the deceased is a UK national then we will have to obtain Letters of Administration in the UK and then deal with the estate in accordance with parts A & B above.

If you have any queries or would like to discuss your matter further please do not hesitate to contact any of our staff.

Below is a list of the documents we will require to assist with the inheritance process:

- Copy of Spanish will
- Copy of other will (if there is one)
- Death certificate

- Deeds for Spanish property
- Electricity and water receipts for property
- Town Hall rates receipt for property
- Contact details of administrator for community of owners (if there is one)
- Spanish bank account number and name of bank
- Spanish car documents
- Copy of passport of deceased
- Copies of passports of heirs
- Full name, address, marital status and professions of heirs

If you have any queries about the inheritance process and would like a conversation with one of our specialist lawyers, please contact us by email at enquiries@mylawyerinspain.com or by telephone.