

Free advice leaflet:

The Spanish Inheritance Process

If you are reading this document and have lost a loved one or a friend, please accept our most sincere condolences and consider reading our living with loss leaflet. The information set out below has been prepared to inform you of the process that we will follow on your behalf in dealing with the Spanish estate of someone who has passed away.

In dealing with the Spanish assets of a deceased person, we have to ascertain whether or not they died with a will from their home country, 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.

The information set out below is aimed at UK nationals or foreigners 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.

The first step is to obtain the death certificate and then apply for a certificate of last wishes

Once we have been provided with an original death certificate, 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. Even if we know a Spanish will was signed, this certificate is still required. If a Spanish will, was not signed then our next step will be as set out below under No Spanish will.

If someone died outside of Spain, then the original death certificate has to be stamped with the Apostile of the Hague and then translated. We can arrange translations.

If there is no Spanish will then for UK nationals a Grant of Letters of Administration will be required from the UK which a UK solicitor can assist you with.

For non-UK nationals a document issued by a court from your home country confirming that the heirs can manage the inheritance process will be required.

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, 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 your home country authorising us to act for them in Spain.

B) Spanish Assets. 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, if payable, 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, then 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 contact us

Email: enquiries@legalservicesinspain.com or Tel: +34 951 820 099 or if calling from the UK 00 44 203 807 4044



Inheriting Spanish Assets is part of an online group of specialist legal services, designed to make life quick and easy for clients to gain the specialist legal support they need.

Our legal advisers at inheritingspanishassets.com offer a **FREE** no obligation 30 minute telephone consultation service where you can discuss any legal issue or concern you have related to Spanish law.



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