

To ensure that your chosen beneficiaries will receive your Spanish 'estate', you should consider the following questions.

Do I need to have both a UK* and Spanish will?

While there is no legal requirement to have a will in Spanish form and you can dispose of your Spanish estate in your UK* will, for practical and financial reasons it is advisable to have a separate Spanish will. You should always consult a solicitor who is conversant with cross-border succession matters.

If I decide to have a Spanish will, what do I need to know?

- There are various types of will, the most common is known as an 'open will' and is signed in the presence of a public notary.
- In Spain all notarial wills are registered in a central register of wills and so no Grant of Probate is required on death.
- If there is a single UK* will, on death there would need to be a Grant. If you die domiciled outside the UK and leave no estate in the UK, the Probate Registry will refuse to issue a Grant and it will be difficult, if not impossible, to prove your will in Spain.
- The UK* will must be translated into Spanish, increasing the costs incurred in the administration of your estate.
- It is important to ensure that your UK* will does not include the standard revocation clause. When you have two wills in different forms, you must ensure that one does not revoke the other. You must also take care if you make any codicils.
- There is no acknowledgement of a legal 'trust' in Spain, because there is no distinction between legal and beneficial ownership of property. You should therefore avoid any provisions in your will which leave your Spanish estate in trust.
- In Spain there is no 'executor' role. There is a concept known as 'albacea' which is similar, but not the same as a UK executor. You should consult a solicitor if you want your Spanish estate to be dealt with by an executor.

Which country's Inheritance Tax rules apply when I die?

If all your estate is in Spain, then Spanish Inheritance Tax is payable.

If you have estate in Spain and the UK, the position depends on the residency of your beneficiaries. You are strongly advised to consult a solicitor. If you have only a UK* will, and you leave estate in Spain, the cost of administering your Spanish estate will be higher. If the required Grant of Probate is not available within six months from the date of death, your estate will be liable, according to Spanish law, to a surcharge of the Spanish Inheritance Tax for late payment.

Are there any common problems?

If you have only a UK* will, and you leave estate in Spain, the cost of administering your Spanish estate will be higher. If the required Grant of Probate is not available within six months from the date of death, your estate will be liable, according to Spanish law, to a surcharge of the Spanish Inheritance Tax for late payment. The above information is a starting point and gives an overview, but for more specific guidance regarding your own circumstances, please seek professional advice from a solicitor of your choice, or contact Lorenzo Barrero from Alberto Perez Cedillo at lbarrero@apcedillo.com

*UK will – written according to the law in England and Wales, or Northern Ireland, or Scotland.