



# Portuguese inheriting property guide



**A comprehensive guide to  
inheriting property in Portugal**



# PORTUGAL

This is my happy Motherland, beloved of mine

**10 million** Population

79th most populous country on earth

**11** Provinces

Capital : Lisbon

Currency : Euro (EUR)

Languages : Portuguese, Mirandese

## EUROPE



Judicare Law International Limited is a company incorporated in England & Wales under Company Number 10043006 and is authorised and regulated by the Solicitors Regulation Authority with number 630930

Introduction	4
Inheritance in Portugal FAQ's	5
Costs and Timings	6
UK Wills	7
Portuguese Wills	8
Currency	9
Powers of Attorney	10
Selling after inheritance	11
NIF	12
Who Should Own the Property?	13
Miscellaneous	14
Wills	15
Inheritance	16
Ongoing Obligations	18
Tax Residence	19
Fees and Taxes	20
Useful Terms	22
Inheriting in Portugal Checklist	24
Why Use Judicare	25

# introduction

A death of a friend or a family member is a difficult period at the best of times, especially if you have to deal with the mechanics of the inheritance. Dealing with the legal process in a different unfamiliar country only adds to that difficulty. We have put this guide together to help you understand a little more about the process of inheriting property in Portugal and to make the process as easy as possible.

This guide is aimed at providing some basic information about inheriting property in Portugal and tries to answer the majority of the common questions that we are asked about. Although we hope that you will find it useful it is important to remember that it doesn't cover all legal issues involved and certainly isn't a step by step DIY guide to inheriting in Portugal. It is still recommended that you seek advice from a professional before proceeding – after all we do this every day and have been doing so for many years and therefore know all the tricks and pitfalls that you may come across. We also know the practical solutions to the problems that exist and also know how Portuguese Law interacts with UK law.



# inheriting property in Portugal faq's

## **Is inheriting in Portugal the same as the UK?**

No, the processes are very different, but there is an interaction between them when you inherit a property in Portugal. That is why the best person to advise you on this matter in Portugal is somebody who understands both Portuguese and UK law.

## **Do I need a lawyer to help me inherit in Portugal?**

No, you don't – just like you don't necessarily need a lawyer when inheriting in the UK. However, in reality you would always use a lawyer when dealing with an inheritance in the UK so what is so different about inheriting in another country where you probably don't have experience of inheriting before?

## **I have been told that I don't need a lawyer but need a Notary. Is this true?**

The Notary is important in Portugal but tends only to get involved at the end of the transaction. His role is to carry out some basic checks at the end and attend to the signature of the title deed and in some cases to register the property. He doesn't help you get to that stage or advise you on the best way to inherit. The Notary is also important previously to inherit, due to the his intervention in which concerns the wills.

## **I have heard that certain people have to inherit from you in Portugal. What is the situation?**

This is probably the most common question that we get asked about an inheritance in Portugal and also the biggest misconception. In Portugal, just like in many countries, there is a system of "Forced heirs". This means that if you are Portuguese you have to leave your assets to specific people—normally your children and your spouse. However, if you are not Portuguese or not resident in Portugal you don't have to follow these rules and are allowed to follow the inheritance laws of your home country. If you are resident in Portugal then you can get around this requirement by leaving a Will.

## **Are the costs more in Portuguese than in the UK?**

Yes, the total costs are often higher than you will be used to in the UK. This is mainly because of the higher taxes and also because the process is more complicated. It is therefore important to factor these into your budget from the beginning.

## costs and timings

The total cost of inheriting in Portugal is generally higher than in the UK. This is for several reasons.

First of all the Portuguese system is paperwork heavy compared to the UK—particularly if there is an international element in the mix.

Secondly there is often complications in the inheritance which arise from the fact that the beneficiaries or the deceased are not Portuguese or are not living in Portugal.

We have in the past, for example, had to get beneficiaries to apply for their first passport in order to inherit a property in Portugal.

Thirdly pretty much every document that we need needs to be translated and officially stamped—all of which has a cost.

In Portugal there are strict time periods in which to pay the inheritance taxes.

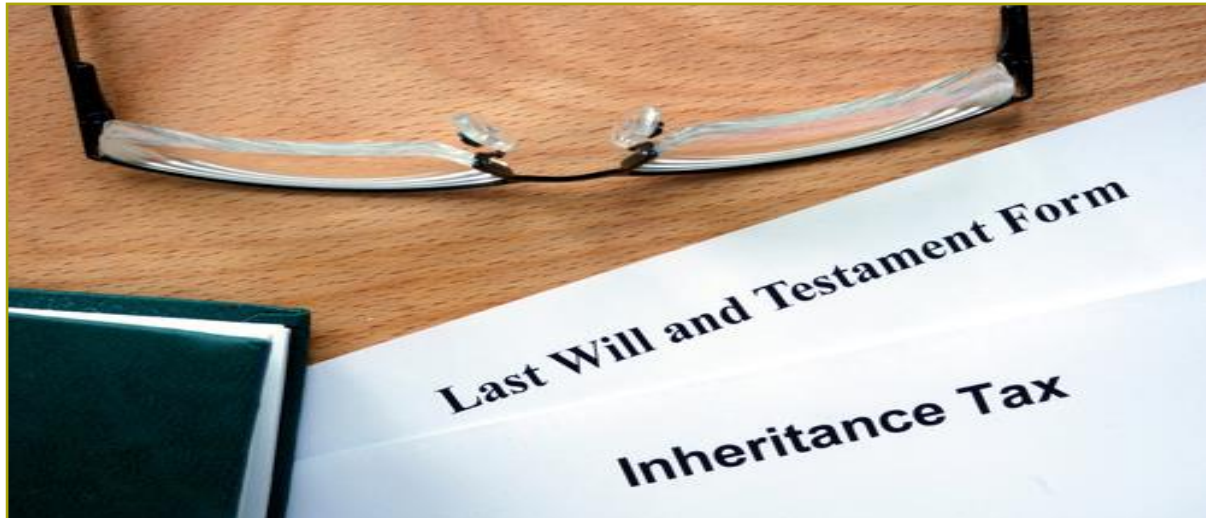
If the taxes are not paid within that time then the authorities levy a fine and daily interest on late payment.

This fine and interest can add up to a reasonable amount over time and therefore this should be avoided. You have 3 months from the date of death to pay these taxes.

Strangely the authorities also only have a certain number of years to collect the inheritance tax and if they don't then they lose their right to collect the tax.

For this reason many people wait until the end of that period before accepting the inheritance.

This is a risky strategy though due to the fact that if you are caught within that period you will end up paying much more than you needed to.



It is possible to leave assets in Portugal using a foreign Will if they are located in Portugal. Therefore you can draft your UK Will to include your Portuguese assets.

However, doing this unnecessarily increases the costs of the subsequent inheritance in terms of the costs and sometimes taxes. The reason for this is that the process becomes more difficult—each document needed needs to be translated and legalized. The cost of translating a UK Will into Portuguese can run into hundreds of pounds on its own. Further to this the process slows down as we have to wait for the Grant of Probate to be issued in the UK before we can progress the inheritance in Portugal, which will normally mean that the inheritance taxes are not paid in time in Portugal, resulting in a fine and late payment interest.

It may be necessary to draft a Declaration of Law which confirms to the authorities in Portugal that the UK Will is valid in the UK and also who the beneficiaries are. It is also often necessary to explain to the authorities in Portugal how a UK inheritance works as the two systems are very different—in Portugal for example, it is the beneficiaries who inherit directly rather than using executors, administrators, trus-

# Portuguese wills

The easiest way of dealing with an inheritance is by using a Portuguese Will. This is for several reasons.

First of all the Will is made in the Portuguese format, meaning that the authorities in Portugal understand it and therefore do not require a Declaration of Law explaining the Will.

Secondly because it is drafted in Portugal and therefore does not need translating.

Thirdly because the Will is made in contemplation of the Portuguese Law, meaning that it fits nicely with what the authorities want people to do.

All of this makes the process smoother and therefore quicker.

The smoother and quicker a process is then generally the cheaper it will be.



If you are going to sell the property acquired in Portugal and bring the money back to the UK then involves a lot of money. Even the taxes and fees payable can be quite high. When you are converting from one currency to another the difference between one exchange rate and another can literally make a difference of thousands of pounds on your purchase. Do not underestimate the difference that a good exchange rate can make, specially when concerning euros and pounds.

We know people who have sold properties and have made more money on the exchange rate difference than they have on the sale of their property.

We are not banks or currency dealers, but would recommend that you investigate the cheapest way of sending your money abroad. If you would like we can put you in contact with currency dealers that we know will give you a good exchange rate and a good service.

Currency dealers have increasingly sophisticated products. You can agree rates for the future. You can get them advising you when to buy or agreeing to buy for you when the rate hits a certain level. You can even agree a fixed rate for longer periods of time if you make regular payments abroad (for example for a mortgage or moving your pension money).

We work with [Currencies Direct](#) who can give you a good exchange rate for your purchase and whom we have known for years. We will normally receive a commission for introducing them to you. This does not cost you anything more as they are simply paying us part of what they make. This commission is costed into our overall charges for providing our services.



# powers of attorney

A Power of Attorney is a document which allows somebody to do something on your behalf.

If the deed of inheritance is not being signed in the UK then often clients prefer to grant a Power of Attorney to somebody to sign the title deeds on their behalf.

## **This has several advantages;**

You are normally busy and haven't time to go out to Portugal to sign the deeds of acceptance of inheritance

Signing title deeds is not particularly exciting and most people prefer to use their time off enjoying the property rather than signing pieces of paper.

It normally works out cheaper than you going out to Portugal to sign.

You should only give a Power of Attorney to somebody that you trust as they allow that person to do things legally on your behalf.

In Portugal Powers of Attorney have much wider faculties than we are used to in the UK and often have very general clauses in them "just in case". We try and limit the Powers of Attorney down as much as possible whilst still allowing the person appointed the freedom to do what you need them to do.

We charge £200 plus tax for drafting up a Power of Attorney. On top of that you will have Notary fees, foreign and Commonwealth Legalisation fee (£30 per document) and often Courier fees.





Often the beneficiaries of a property in Portugal will think about selling the property soon after. This can be for a number of reasons - they have no use for the property, they need the money to pay for something else or the property brings back too many memories to visit it again. Whatever the reason for thinking about selling the property it makes sense, as much as possible, to tie in the sale with the inheritance. Doing this can save money and time.

In practice, however, this can be difficult as often Estate Agents will refuse to list the property until the deed of acceptance of Inheritance has been signed. It can also be dangerous to wait for a buyer as this can often take you over the voluntary period for paying the inheritance taxes—meaning that you end up paying a fine and interest.

The NIF (Número de Identificação Fiscal, which translated literally is your Foreigner's Identity Number) is your Tax Identity Number in Portugal.

There are several times when you are likely to be required to produce your NIF number;

- **When you buy or inherit a property**
- **Opening a bank account**
- **Dealing with the utility companies**
- **Taking out insurance**
- **Dealing with the tax authorities**
- **Buying or selling shares, bonds and stocks**
- **Buying a car**

At the moment you can apply for your NIF personally, by your representative or business manager. We will therefore advise you how this is working at the time that you contact us.



## who should own the property?



This is probably the most important decision that you can make. Getting this right can save you thousands in costs and taxes. Getting it wrong can be an expensive mistake. It may be possible for you to have several options when inheriting in Portugal, although some options cost more money to put into place than others.

The way that you would own a property in your home country is not necessarily the best way to own in Portugal so do not assume that you can adopt what you have done here to your inheritance in Portugal.

There are many options – ranging from personal ownership to company ownership but there is no “one size fits all” solution that works for everybody.

Your circumstances and priorities are different from the next person. We are able to look at your circumstances and your priorities and advise you who should own the property based on that information.

The solution may not necessarily be immediately obvious.

# miscellaneous

## **Residents Association (Condomínio)**

If you are inheriting property in a complex then there will be a Community of Owners. We would need to make sure that all Community charges have been paid up to date before you can inherit.

## **Water and Electricity**

It is important to check that there is a connection and that the charges are paid up to date.

If you are buying a new property we will need to check that the property has the appropriate Habitation Certificate which allows the services to be connected.

## **Land Registry (Registo Predial)**

Almost all land and properties in Portugal are now registered.

We would obtain a search at the local Land Registry for office copy entries of the previous owner's deed which will show who the registered owner is and whether there are any charges on the title. By inheriting a property in Portugal your ownership will be duly registered in the Land Registry.

## **Town Hall (Câmara Municipal)**

Checks should be made at the Town Hall to make sure that the Council Tax (Imposto Municipal sobre Imóveis – IMI) has been paid up to date. By inheriting a property in Portugal you will be the owner of it and taxes like IMI are payable by you.

## **Moving In**

Just like back home you will need to arrange to have the utilities and services in your name and often have to set up a direct debit at your Portuguese bank to pay the bills. You also need to inform the local Council and the Residents Association that you own the property.

If you are going to keep the property after the inheritance then now is the time to make a Portuguese Will yourself.

We can advise you on the various different options regarding your Portuguese Will.

It is possible to have two wills – one in the Portugal covering your Portuguese assets and one in the UK covering your other assets. Both Wills need to be drafted carefully to make sure that they do not revoke each other.

You can leave your assets in Portugal to somebody with a UK will but this doesn't make sense – the cost of the subsequent inheritance will be more and it is possible that you will inadvertently cause inheritance tax problems.

The cost and extra complications of leaving no Will at all is great and should be avoided.

Whilst as a foreigner you do not have to follow the same rules that Portuguese people do in terms of who you have to leave your property to, it often makes sense to do so as this can save your beneficiaries huge amounts in tax.

A Portuguese Will can be prepared and signed in your local area or in our offices – there is no need to go to Portugal.

We can arrange for the registration of your Will at the Central Wills Registry in Lisbon.

We charge £200 plus VAT for drafting a simple Will for one person.

On top of that there are Foreign and Commonwealth Office Legalisation fees (currently £30) and Notary fees, which will depend on the Notary.

The Portuguese Will can be signed in the UK or in Portugal.

# inheritance...

Portuguese Inheritance Law states that when you die your properties will be shared among your heirs according to the law of your country of your residence.

It is a common misconception that as a foreigner you have to leave your assets in accordance with Portuguese law, which imposes certain “forced heirs” A “foreigner” can make a Portuguese Will leaving his own property to the person of their choice.

This Will must contain a declaration that their personal law is governed by the principle of free disposition of property by testament. This is then acceptable to the Central Wills Registry in Portugal. Generally speaking a valid Portuguese will is sufficient to dispose of the estate as you wish.

Inheritance tax on property or assets in Portugal has to be paid in Portugal.

The property or assets also have to be declared back in the UK although due to Double Taxation Laws you can offset the tax paid in Portugal against the tax payable in the UK.

## **The rate of inheritance tax (Imposto do Selo) payable in Portugal will depend on:**

1. The relationship between the person who died and the beneficiaries (some categories are exempt);
2. The rate is always 10% of the total value of the inheritance.
3. The type of goods, some are exempt of tax (stock dividends, personal goods, retirement saving funds and education funds, savings in stock, pensions or investment real estate, credits from life insurance, pension and social security allowances.

Strictly speaking inheritance tax was abolished from the Portuguese legislation in 2004 and it was substituted by the “Imposto do Selo”, which covers several transactions in Portugal and inheritance too. There is therefore no specific Inheritance Tax although there is a tax that covers inheritance.



**The closest relatives have a tax exemption:**

- Husband / Wife
- Children
- Grandchildren
- Parents
- Grandparents

The rest of the relatives or people who are not so directly related to the deceased do not have a tax exemption, they pay tax on the full amount of 10 %.

All of the heirs benefit from the exemption of the good referred before.

# ongoing obligations

After you inherit a property in Portugal there are ongoing obligations that you need to meet (assuming that you wish to keep the property):

## **Insurance**

It makes sense to insure your property and its content.

## **Council Tax (Imposto Municipal sobre Imóveis—IMI)**

This is normally paid annually in one, two or three lumps, depending on the value of the tax sum, between April and November. The amount will depend on the location, value, size and age of the property.

Non payment of IMI can lead to legal proceedings being taken against you by the tax authorities and an embargo being placed on the property.

## **Utilities**

You will be responsible for the utility charges – electricity, gas, water sewerage, rubbish collection etc. from the time that you own the property.

## **Community Charges (Quota de Condomínio)**

You should pay these otherwise the property can be confiscated and auctioned in order to settle the debt.

## **Income Tax**

If you are non-resident you must declare any income you have earned in Portugal. This applies even if you receive this income by renting out to people from your home country and the money never touches Portugal

Even if you do not receive any rent from the property it is assumed that you have received some sort of benefit and you are taxed on this.

You will also normally have to declare this income in the country where you are tax resident but can normally offset the tax paid in Portugal through Double Taxation Agreements.

The ongoing taxes that you pay when you buy a property in Portugal will normally depend on whether you are tax resident there or not.

**Tax residence is a determined by a number of factors:**

How long you spend in that country? Is it 183 days or more a year (not necessarily continuously). If so you are likely to be tax resident there.

Is your main home there? If it is then you are likely to be tax resident there.

Is your immediate family (spouse and dependent children) based there? If so you are likely to be tax resident there.

Is your main economic interest there? If so you are likely to be tax resident there.

If you do become tax resident in a country then you will normally stop paying taxes in your home country and start to pay taxes in the new country.

Do not be tempted to have selective amnesia when it comes to declaring taxes the authorities in both Portugal and the UK are clamping down on people who do not do things properly.

Sometimes you should declare something for tax purposes in one country and also in another. Portugal and the UK have a Double Taxation Agreement which means that you do not normally pay tax twice and can offset the tax paid in the other country against the tax that you would otherwise pay in your home country.

# fees and taxes

**Notary fees for signature of Deed of Acceptance of Inheritance** - Typically around €600

**Notary fees for Power of Attorney (if applicable)** - Typically around £100

**Legalisation fees** - £30 per document. Total cost of typically £60-£120 depending on how many documents are required

**Wills registry Search** - €7

**Land registry fees** - Typically around €300 (including searches)

**NIF Application cost** - €7 (if needed)

**Taxes** - Dependant on a number of factors including who is inheriting, where the assets are in Portugal and the value of the assets. The tax rate if applicable is a flat 10%

**Note** - When the payment is to be made in Portugal we have quoted the cost in Euros and where the payment is in the UK we have quoted Pounds



### **Our charges**

Because each inheritance is different we would need to look at the circumstances of the case before letting you know what the charges would be. There is a big difference between a simple uncontested inheritance with a Portuguese Will and one where there is no Will at all and somebody contesting the inheritance. Having said that, a typical inheritance will cost in the region of £2,000 plus VAT. On top of that there will be various fees and taxes.

Our charges include;

- **Advising you on the position in relation to the inheritance**
- **Getting all the necessary paperwork ready including translations and legalisations if necessary**
- **Various searches on the property**
- **Checking the legal status of the property**
- **Making sure that each beneficiary is ready and able to accept the inheritance**
- **Dealing with any debts on the property**
- **Arranging the signature of the deed of acceptance of inheritance**
- **Arranging payment of the relevant taxes**
- **Arranging registration of the property at the Land Registry**
- **General hand holding and advice throughout the inheritance**

## useful terms

Advogado	<b>Lawyer or solicitor</b>
Avô / Avó	<b>Grandfather / Grandmother</b>
Aceitação da Herança	<b>Acceptance of inheritance / probate</b>
Apostilla	<b>Apostille (at Foreign &amp; Commonwealth Office)</b>
Consultor fiscal	<b>Tax consultant</b>
Câmara Municipal	<b>Town Hall</b>
Beneficiário	<b>Beneficiary / Heir</b>
Condomínio	<b>Community of owners / Residents Association</b>
Declaração de nova obra	<b>Declaration of new building work (At the Notary)</b>
Falecido	<b>The deceased</b>
Domicílio	<b>Residence</b>
Enterro	<b>Funeral</b>
Escritura	<b>Title Deeds</b>
Funerária	<b>Funeral Directors</b>
Repartição de Finanças	<b>Tax Office</b>
Herdeiros Legitimários	<b>Forced Heirs</b>
Herança	<b>Inheritance</b>
Filha	<b>Daughter</b>
Filho	<b>Son</b>
Filhos	<b>Children</b>
IMI (Imposto Municipal sobre Imóveis)	<b>Council Tax</b>
Imposto	<b>Tax</b>
Imobiliária	<b>Estate Agency</b>
IVA (Imposto sobre o Valor Acrescentado)	<b>VAT (Value Added Tax)</b>

Jurisdição	<b>Jurisdiction</b>
Chave	<b>Key</b>
Lei	<b>Law</b>
Licença	<b>Licence</b>
Luz	<b>Light (but often refers to electricity)</b>
Mãe	<b>Mother</b>
Morte	<b>Death</b>
NIF (Número de Identificação Fiscal)	<b>Foreigner's Identification Number</b>
Pesquisa do Registo Predial	<b>Land Registry Search</b>
Notário	<b>Notary Public</b>
Pai	<b>Father</b>
Procuração	<b>Power of Attorney</b>
Apólice de Seguro	<b>Insurance policy</b>
Prescrição	<b>Limitation period (for paying taxes)</b>
Propriedade	<b>Property</b>
Registo de Testamentos	<b>Wills registry</b>
Registo Predial	<b>Land Registry</b>
Renúncia	<b>Renounce</b>
Residente / Residência	<b>Resident / Residence</b>
Sucessores	<b>Inheritance / Succession</b>
Herança Legitimária	<b>Intestate inheritance</b>
Sociedade	<b>Company</b>
Terreno	<b>Plot</b>
Testamento	<b>Will</b>
Usufruto	<b>Life interest</b>
Valor Tributável	<b>Official value of the property</b>

## inheriting in Portugal checklist

	To do	Completed
1	Get copy of Death Certificate	
2	Instruct your independent lawyer (hopefully Judicare)	
3	Get copy of Will—if applicable	
4	If it is a UK Will get copy of Grant of Probate	
5	Consider whether you want to keep the property after the inheritance	
6	Consider whether you want to vary who should inherit the property	
7	Speak to currency dealer about getting the best rate for your money transfers	
8	Lawyer carries out checks on the property and advises you on the inheritance	
9	Arrange NIF numbers for all beneficiaries	
10	Arrange Power of Attorney if needed	
11	Lawyer deals with inheritance	
12	Arrange insurance – contents / buildings / health	
13	Signature of deeds of acceptance of inheritance	
14	Pay taxes	
15	Registration at the Land registry	
16	Make a Portuguese Will and review your English Will	
17	Arrange for Fiscal representation	



## **Portuguese lawyers**

A highly experienced Portuguese legal team.

## **We are Solicitors**

We are a UK based firm of Solicitors regulated by the Solicitors Regulation Authority and who specialise in international legal issues.

## **We understand both sets of laws**

Because we understand both sets of laws we understand the difficulties that come when two sets of laws meet.. This is particularly important when it comes to issues involving ownership, taxation and inheritance.

## **We are members of AIPP**

The Association of International Property Professionals was set up to improve standards of professionalism in a largely unregulated overseas property market.

## **Experience**

Our Portuguese team has many years of experience dealing with a whole range of legal issues with Portugal.

## **We speak your language**

You need a lawyer who can speak your own language. More importantly you need somebody who can explain and discuss often complicated issues in terms that you understand.

## **Independence**

We are independent. We are not allowed to act for the buyer and the seller at the same time. We are not linked with any Development Companies, Builders or Estate Agents

# Contacts

A member of the Judicare Team can be contacted either by phone, email or post.

t: 01438 840258 • e: [admin@judicaregroup.com](mailto:admin@judicaregroup.com) • w: [www.judicaregroup.com](http://www.judicaregroup.com)



[www.judicaregroup.com](http://www.judicaregroup.com)

Associate Offices

Brazil Cape Verde Cyprus Dominican Republic Greece Italy Morocco Portugal Spain Turkey UAE

Judicare Law International Limited

3a The Grange, 3 Codicote Road, Welwyn, Herts AL6 9LY - Tel: 01438 840258 - Fax: 0870 123 6289 - Email: [admin@judicaregroup.com](mailto:admin@judicaregroup.com)