



Spanish inheriting property guide



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



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introduction

A death of a friend or a member of your family is a difficult period for anybody at the best of times. To be faced with the realities of dealing with the legal process and the mechanics of an inheritance 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 Spain and to make the process as easy as possible.

This guide is aimed at providing some basic information about inheriting property in Spain 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 Spain. 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 Spanish Law interacts with UK law.



inheriting property in Spain faq's

Is inheriting in Spain the same as the UK?

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

Do I need a lawyer to help me inherit in Spain?

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 Spain 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.

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

This is probably the most common question that we get asked about an inheritance in Spain and also the biggest misconception. In Spain, just like in many countries, there is a system of "Forced heirs". This means that if you are Spanish you have to leave your assets to specific people—normally your children. However, if you are not Spanish or are not resident in Spain you don't have to follow these rules and are allowed to follow the inheritance laws of your home country. Even if you are resident in Spain you can state that you wish the law of your own nationality to apply to your assets. However, it often makes sense from a tax point of view to follow the Spanish rules anyway.

Are the costs more in Spain than in the UK?

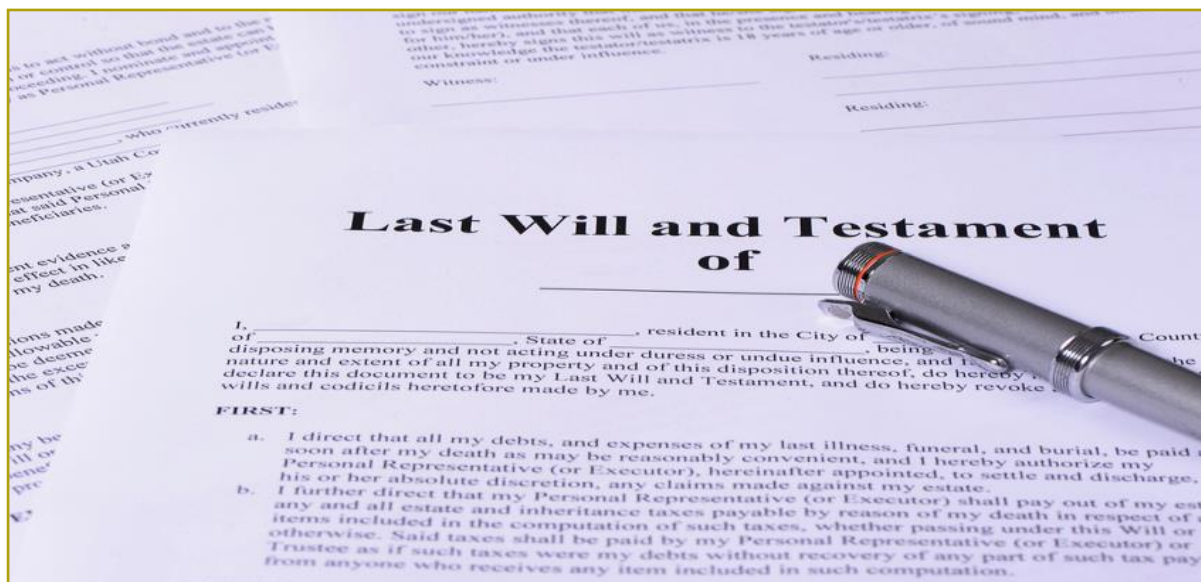
Yes, the total costs are often higher than you will be used to in the UK. This is mainly because of the higher taxes and also because the process is more complicated. It is therefore important to factor these into your budget from the beginning.

costs and timings

The total cost of inheriting in Spain is generally higher than in the UK. This is for several reasons. First of all the Spanish 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 Spanish. We have in the past, for example, had to get beneficiaries to apply for their first passport in order to inherit a property in Spain. Thirdly pretty much every document that we need needs to be translated and officially stamped - all of which has a cost.

In Spain 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 6 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 Spain using a foreign Will as Spanish Law recognizes Wills that are made abroad. Therefore you can draft your UK Will to include your Spanish 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 required needs to be translated and legalized. The cost of translating a UK Will into Spanish can run into hundreds of pounds on it's 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 Spain, which will normally mean that the inheritance taxes are not paid in time in Spain, resulting in a fine and late payment interest.

It may be necessary to draft a Declaration of Law which confirms to the authorities in Spain 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 Spain how a UK inheritance works as the two systems are very different - in Spain, for example, it is the beneficiaries who inherit directly rather than using executors, administrators, trustees and the like.

Spanish wills



The easiest way of dealing with an inheritance is by using a Spanish Will. This is for several reasons. First of all the Will is made in the Spanish format, meaning that the authorities in Spain understand it and therefore do not require a Declaration of Law explaining the Will. Secondly because it is drafted in Spanish and therefore does not need translating. Thirdly because the Will is made in contemplation of the Spanish 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 can be made generally ensures the more cost effective it will be.

If you are going to sell the property and bring the money back to the UK this 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.

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 Spain 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 Spain 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 Spain, Powers of Attorney have much wider faculties - powers - 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 Spain 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 NIE (Numero de Identidad de Extranjeros, which translated literally is your Foreigner's Identity Number) is your Tax Identity Number in Spain. There are several times when you are likely to be required to produce your NIE 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**

The rules on NIEs change regularly and between geographical areas. Sometimes you have to obtain this yourself and sometimes it can be done by somebody on your behalf. We will therefore advise you how this is working and the associated costs at the time you contact us.

The image shows a close-up of a Spanish NIE application form. The form is filled with various fields for personal information. A silver and black pen is resting diagonally across the form, pointing towards the bottom right. The visible fields include:

- Sex:** Male (checkbox), Female (checkbox)
- City and Country of Birth:** (Two separate fields)
- Date of Birth:** (mm/dd/yyyy)
- First Name:** (Multiple fields for different names)
- Middle Name:**
- City and Country of Birth (if known):**
- Date and Place of Marriage:**
- or Wife (If none, so state) or wife, give maiden name):**
- or Wives (If none, so state) or wife, give maiden name):**
- List present address first:**
- City:**
- Province:**

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 Spain, 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 Spain so don't assume that you can adopt what you have done here to your inheritance in Spain.

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 (Comunidad de Propietarios)

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 inheriting 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 (Registro de la Propiedad)

Almost all land and properties in Spain are now registered.

We would obtain a search at the local Land Registry for office copy entries (Nota Simple) of the previous owner's deed which will show who the registered owner is and whether there are any charges on the title.

Town Hall (Ayuntamiento)

Checks should be made at the Town Hall to make sure that the Council Tax (Impuesto sobre Bienes Inmuebles – IBI) has been paid up to date. It is also possible to obtain a certificate from the Town Hall showing that the property has the necessary building permit and complies with local planning and building regulations.

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 Spanish 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 Spanish Will yourself.

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

It is possible to have two wills – one in the Spain covering your Spanish 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 Spain 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 Spanish 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 Spanish Will can be prepared and signed in your local area or in our offices – there is no need to go to Spain.

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

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 Spanish Will can be signed in the UK or Spain.

inheritance.....

Spanish Inheritance Law states that when you die your property will be shared among your heirs according to the law of your country of origin. It is a common misconception that as a foreigner you have to leave your assets in accordance with Spanish law, which imposes certain “forced heirs”. A “foreigner” can make a Spanish 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 Spain. Generally speaking a valid Spanish will is sufficient to dispose of the estate as you wish.

If a foreign resident dies domiciled in Spain the estate will be distributed according to Spanish law. Domicile is not the same as Tax Residence.

Inheritance tax on property or assets in Spain has to be paid in Spain. 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 Spain against the tax payable in the UK.

The rate of inheritance tax payable in Spain will depend on three things;

1. The relationship between the person who died and the beneficiaries
2. The amount that each beneficiary receives
3. The individual wealth of each beneficiary
4. The autonomous region of Spain that applies

The tax is a tax on the individual beneficiaries rather than the estate as a whole.

Each Autonomous region of Spain sets its own Inheritance Tax rates and therefore also sets the tax free allowances that apply. There is a trend towards these tax free allowances to increase, meaning that even though there is no total exemption between husband and wife there is often an increasing amount that can be inherited without having to pay any tax.

The rates of Inheritance Tax in Spain for a given amount change according to the area of Spain. An example is as follows. Multipliers may also apply to these figures depending on the relationship between the parties and the wealth of the beneficiaries.

Amount	Base Tax Payable	Remainder Taxed at
Up to €7,993.46	€0	7.65%
€7,993.46	€611.50	8.50%
€15,980.91	€1,290.43	9.35%
€23,968.36	€2,037.26	10.20%
€31,955.81	€2,851.98	11.05%
€39,943.26	€3,734.59	11.90%
€47,930.72	€4,685.10	12.75%
€55,918.17	€5,703.50	13.60%
€63,905.62	€6,789.79	14.45%
€71,893.07	€7,943.98	15.30%
€79,880.52	€9,166.06	16.15%
€119,757.67	€15,606.22	18.70%
€159,634.83	€23,063.25	21.25%
€239,389.13	€40,011.04	25.25%
€398,777.54	€80,655.08	31.75%
€797,555.08	€207,266.95	36.50%

ongoing obligations

After you inherit a property in Spain 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 contents.

Council Tax (Impuesto Sobre Bienes Inmuebles)

This is normally paid annually in one lump sum between 15th September and 15th November. The amount will depend on the location, size and age of the property.

Non payment of IBI can lead to legal proceedings being taken against you and an embargo on the property.

Utilities

You will be responsible for the utility charges – electricity, gas, water sewerage, rubbish collection etc. from the time that you buy the property and should make arrangements for these to be put into your name.

Community Charges (Cuota Comunidad de Propietarios)

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 Spain. This applies even if you receive this income by renting out to people from your home country and the money never touches Spain.

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 (but only at 0.5% of the Valor Catastral).

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 Spain through Double Taxation Treaties.

The ongoing taxes that you pay when you buy a property in Spain 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 Spain 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. Spain and the UK have a Double Taxation Treaty which means that you don't 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 €600—€1,000

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)

NIE Application cost - €7 (if needed)

Taxes - Dependant on a number of factors including who is inheriting, where the assets are in Spain and the value of the assets. This could range from 0% to 82% of the value of the property.

Note - when the payment is to be made in Spain 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 Spanish 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**

Other work required may include obtaining NIE numbers, signing the title deed on your behalf, transfer of utility contracts etc. These are charged separately as not all clients require these services.

useful terms

Abogado	Lawyer or solicitor
Abuelo / Abuela	Grandfather / Grandmother
Aceptación de herencia	Acceptance of inheritance / probate
Apostilla	Apostille (at Foreign & Commonwealth Office)
Asesor fiscal	Tax consultant
Ayuntamiento	Town Hall
Beneficiario	Beneficiary / Heir
Comunidad de Propietarios	Community of owners / Residents Association
Declaración de obra nueva	Declaration of new building work (At the Notary)
Difunto	The deceased
Domicilio	Residence
Entierro	Funeral
Escritura	Title Deeds
Funeraria	Funeral Directors
Hacienda	Tax Office
Herederos forzosos	Forced Heirs
Herencia	Inheritance
Hija	Daughter
Hijo	Son
Hijos	Children
IBI (Impuesto Sobre Bienes Inmuebles)	Council Tax
Impuesto	Tax
Inmobiliaria	Estate Agency
IVA (Impuesto Valor Añadido)	VAT (Value Added Tax)

Jurisdicción	Jurisdiction
Llave	Key
Ley	Law
Licencia	Licence
Luz	Light (but often refers to electricity)
Madre	Mother
Muerte	Death
NIE (Numero de Identificación de Extranjeros)	Foreigner's Identification Number
Nota Simple	Land Registry Search
Notario	Notary Public
Padre	Father
Poder	Power of Attorney
Póliza de seguros	Insurance policy
Prescripción	Limitation period (for paying taxes)
Propiedad	Property
Registro de actos de ultima voluntad	Wills registry
Registro de propiedad	Land Registry
Renuncia	Renounce
Residente / Residencia	Resident / Residence
Sucesiones	Inheritance / Succession
Sucesión intestada	Intestate inheritance
Sociedad	Company
Terreno	Plot
Testamento	Will
Usufructo	Life interest
Valor Catastral	Official value of the property

buying in Spain 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 NIE 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 Spanish Will and review your English Will	
17	Arrange for Fiscal representation	

Spanish lawyers

We have an experienced Spanish legal team comprising Spanish lawyers and English lawyers who have studied Spanish law.

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 Spanish team has many years of experience dealing with a whole range of legal issues with Spain.

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

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