



## **INHERITANCE LAW.**

Making a **Spanish Will** is not compulsory but highly advised. All Wills made in Spain are registered at one central Registry, which makes it easy to apply for a certificate in the event of having to find out what someone's Last Will and Testament entails. We take care of advising you when making your Spanish will in order to make it simple yet effective. In the event of the death of someone close to you, our firm will help you to arrange his or her affairs in Spain.

### **The procedure for dealing with property of non-residents after death**

The first step is to establish the existence of a Spanish will. The Central Registry of Spanish Wills in Madrid should be contacted. If a will exists, the deceased's death certificate will be required in order to apply for a legal copy of the Spanish will.

A valuation of the deceased's estate in Spain will also be required.

If there is a Spanish will, then proceed with the administration of the estate in Spain. Only a notarised and apostilled copy of the death certificate is required.

If there is only a foreign will or intestacy, the following documents will have to be translated, notarised and apostilled, before the administration of the estate in Spain can proceed:

- The death certificate
- The foreign will
- Grant of Representation or equivalent
- It may be necessary to provide a Certificate of Law to explain the law of intestacy in a particular country.

The legal formalities of transferring property to beneficiaries in Spain are completed before a Spanish Notary. The Notary ensures, for example, that the beneficiaries are entitled to the deceased's assets.



## **Inheritance tax for non-residents**

Beneficiaries who do not have their usual residence in Spain are liable to this tax. Residents in Spain are also liable for this tax when the deceased person did not have their habitual residence in Spain.

The filing deadline for the inheritance tax return is 6 months from the date of death. Upon submission of the Form 650, the Tax Agency will calculate the tax payable. Or, the taxpayer can opt for self-assessment, submitting the simplified Form 652. The forms can be downloaded from the [Tax Agency website](#).

If a taxpayer who is required to make payment does not have a NIF, they must take the following steps:

**Non-resident foreign national taxpayers** must apply for a NIE, either from a police station that processes foreign nationals or from a Tax Agency office. The documents required to apply are:

- An authenticated photocopy of the passport of the taxpayer (the beneficiary).
- A photocopy of the Deeds of Acceptance of the Inheritance.
- A NIE application form.
- In the event of a taxpayer acting through a representative, the authorisation or power of attorney.

**Non-resident Spanish taxpayers** must apply for a NIF from a Tax Agency office by presenting the following:

- A Certificate from the Spanish Consulate in the country where you reside, confirming that you are registered on their Registry of Spanish citizens.
- An authenticated photocopy of the consular passport of the taxpayer (the beneficiary).



## **Is Spanish law applicable to my property?**

When a foreign property owner dies with no will (intestate), Spanish law must be applied to their Spanish assets as a result. Be aware that this differs from countries such as the UK. The deceased in Spain must leave two thirds of their estate to their compulsory heirs.

If however the property owner makes a will, they can bequeath their Spanish assets to anyone they please as long as the laws of their home country permit this. The Spanish Civil Code states that the assets that the foreign deceased had in Spain at the time of their death will be governed not by Spanish law but by their own national law.

## **What assets does my Spanish will cover?**

The Spanish will covers those assets located in Spain. You should have a foreign will to cover any assets that you have in other countries. You must make sure that there are no legal conflicts between the application of your Spanish will and your will abroad.

## **What does your service include?**

Once you discuss with us the full details of your intentions, we draw up the will, following your wishes to the extent possible, while adhering to requirements of Spanish law regarding wills. To be valid, this will needs to be notarized.

We will need you to:

- Provide the data for you, your heirs, and anyone else mentioned in your will.
- Choose a notary (or choose the location in Spain most convenient to you, and we will contact a notary there).
- Sign the will at the notary's office.



A copy will be given to you. The original will be kept at the notary's office (or successor's office), thus avoiding risk of loss or theft. In addition, the notary sends a report to the Ministry of Justice, simply notifying the Ministry that the will has been made, without disclosing the contents. That way, it can be known which is the deceased's last official will. The record is kept secret until the death of the testator. At that time, we can know what was the deceased's last official will, thus avoiding possible errors that could later prove serious.