

So what's stopping you?!

Glued to the television every week in front of one of the numerous specialist property programs dealing in property abroad? Chosen your dream-home destination? France, Spain and Florida are all popular at the current time.

It is actually all too easy to make a trip abroad and return home after a weekend visit having signed a contract to purchase a property. Purchasers of property abroad are often insufficiently prepared as to the legal and financial consequences of their purchase and also the law and customs of the country in which they will in effect become guests. All too often buyers assume that the position will be exactly as it is in England and Wales and that they already have the answers.

Before taking such steps, an investor should obtain as much information as possible and in particular the local tax and succession rules that may affect the foreign buyer. For instance, in many civil law countries, reserved rights for heirs are imposed by the law. This means if you have children, they will be entitled to a share in a part of the property on your death, even if your Will provides otherwise.

Advice should be obtained by an expert specialising in both UK law and the local law regarding the purchase structure so as to minimise tax and costs and to ensure you are as fully protected as possible. Great care should be taken to ensure that any advice you obtain is effective in both the country in which you are resident and in the country where your potential property is situated as we often encounter difficulties where a client has received "one way" advice e.g. creating a limited company to purchase an immovable property in France will cause significant tax disadvantages and addition expense for the clients should be avoided.

The foreign property purchase procedure will differ considerably depending on the country. For instance in France, the equivalent of a UK local search does not exist and potential purchasers are advised to make their own enquiries locally.

As with any property investment you should consider having a survey of the property carried out and also obtain quotes for the cost of any works you intend to implement. If you do not wish to purchase the property if you are unable to carry out development, e.g. convert a barn into rental accommodation, then your initial purchase contract should be amended to include a provision ensuring the purchase is contingent on obtaining the necessary permission.

Expert advice should also be obtained prior to commencing any letting activity. A local managing agent can be advantageous and will be able to deal with any on the spot

problems on your behalf. You will obviously want to ensure you have a suitably drafted agreement in place for tenants for seasonal rental taking account of local law.

Letting income will usually need to be declared and tax paid in the country in which your property is situated. It may also need to be declared on your UK Tax Return.

A Will should also be in place to deal with the succession to the property, taking into account the local rules of succession law if applicable. This can either be a separate Will dealing with the foreign property or form part of the English Will dealing with the whole of the estate.

It is wise to be cautious when embarking on a new venture such as a purchase of a foreign property and it is important to ensure that sound advice is obtained from a specialist ideally qualified in both jurisdictions beforehand.

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