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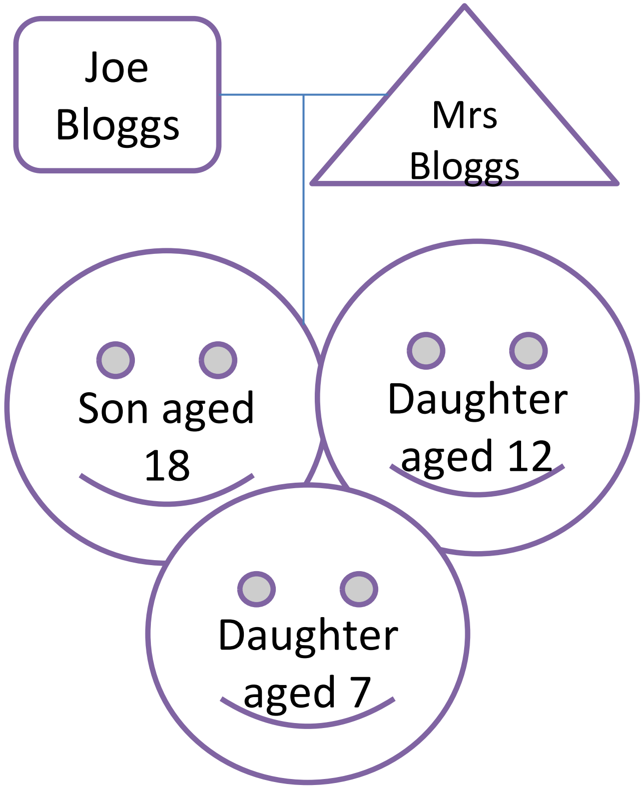
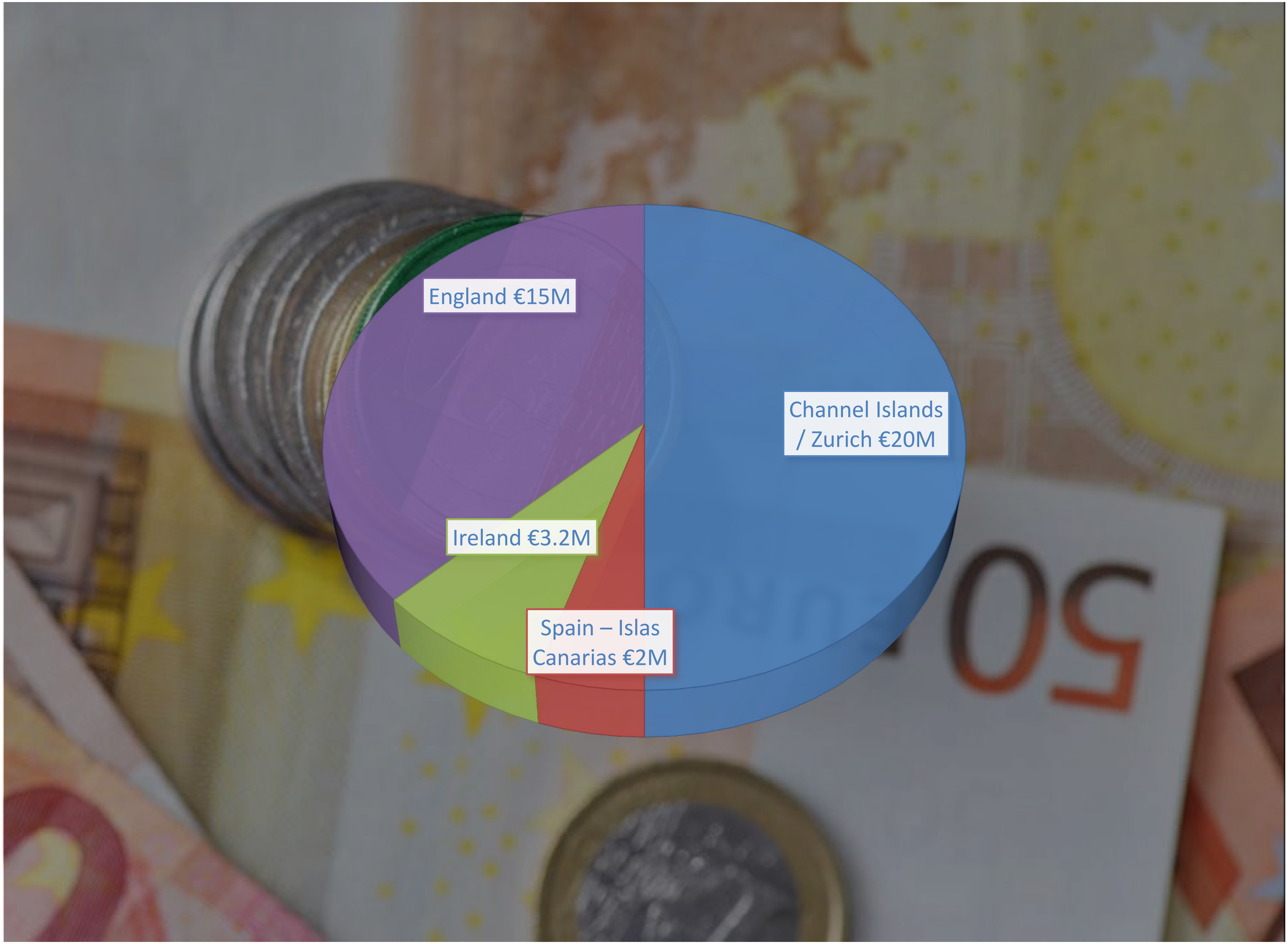
Estate Planning for an International Family : Ireland / UK / Spain

Bloggs Family



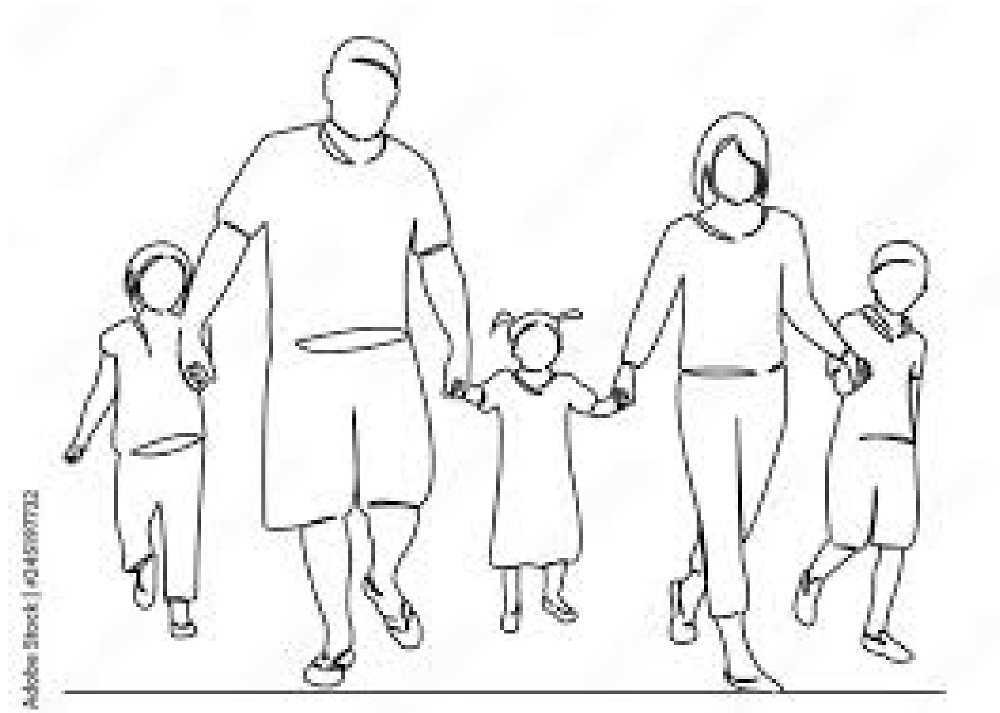
- Joe Bloggs was born in England and retains an English domicile. Living in Ireland for approximately 20 years.
- Mrs Bloggs is a US citizen and retains her domicile in a State of the USA.
- Their son is aged 18 and he has Down Syndrome and it is unlikely that he will be ever able to manage substantial assets himself or care for himself independently.
- They also have two daughters who are aged 12 and 7.
- The family's residency can vary from time to time as well. Joe travels for work and from time to time the entire Bloggs family will travel with him, and this is the reason that their residency may vary during certain periods or in different years


England €15M
Channel Islands / Zurich €20M
Ireland €3.2M
Spain – Islas Canarias €2M

Estate Planning Goals

- ❖ Equality between the children
- ❖ Tax efficiency
- ❖ Protection for the children (for the girls until adulthood and for the son for life)
- ❖ Access to Spanish property for family

Note: Mrs Bloggs is independently wealthy and does not require substantial provision from her husband’s estate and she is comfortable that the family home in Ireland will pass to her automatically. However, she would like to retain access to the Spanish property if that is possible in the event of her husband’s death.



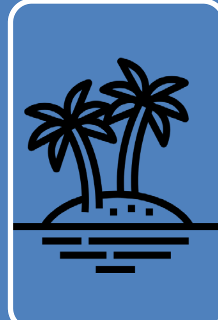
Irish Tax Considerations and Will planning

- A discretionary trust is a very tax efficient method (for Irish tax purposes) to provide for minor children or individuals who are incapacitated.
- The intention under Joe's Irish Will is to create two discretionary trusts, one of which will include all of the children as potential beneficiaries and the other which will only include the son. The reason for this is that there are tax exemptions available for trusts which are created exclusively for the purposes of an individual who is incapacitated from maintaining themselves. It is expected that the son would qualify for this exemption.
- A number of issues have arisen in this context and that includes the tax efficiency of certain assets passing to the discretionary trusts in particular the UK situate assets which would be subject to UK IHT on the death of Joe. A mismatch in timing between the UK IHT and the Irish CAT could mean that a credit is not available. An Irish family partnership may provide a solution.

The Spanish property will pass to Joe's children and Mrs. Bloggs will retain a **life usufruct**.

One of the sons has Down Syndrome. Recommendation: appoint both sisters as **joint guardians (*curador*)** under Spanish law, so that they can make decisions on their brother's behalf.

Tax obligations in Spain: <u>inheritance</u>



- Source-based liability.
- Applicable rules of the Spanish region where the highest value of the assets located in Spain is found.
- **Canary Islands: allowance of 99,9%** for assets inherited by descendants, ascendants and spouses.

Tax obligations in Spain: <u>ownership</u>

- **Wealth Tax (WT)**. Minimum exemption: 700k€.
- **Non-resident income tax (NRIT)**: rental income or deemed income. Deductible expenses just for EU/EEA residents. Tax rate: **19% for EU/EEA** residents, 24% for others.
- **Local taxes**: Property Tax (*Impuesto sobre Bienes Inmuebles*).

UK Tax Considerations

- ❖ April 2025: UK IHT moves from "domicile" to "long-term residence" (LTR) basis. Joe is not an LTR — IHT confined to UK-situs assets only (€15M).

- ❖ Double tax: Discretionary trust creates IHT/CAT timing mismatch — treaty credit lost (Article 8: "same event"). Solution: partnership interest outright to daughters — both charges arise on death, credit preserved.

- ❖ Partnership interest is a "chose in action" for IHT (UK-situs). For CGT, partnership is transparent — market value uplift on death, no gain on FLP contribution. GP interest held by Will trustees.

- ❖ BPR: 100% on first £2.5M, 50% above (effective 20% IHT on excess from April 2026). Outright gift still needed — credit required on residual IHT.

- ❖ Opportunity: First £2.5M into son's trust at nil IHT cost — equality and asset spread.

- ❖ Two trusts: Non-UK assets = excluded property (no 6% charges). Son's trust holds UK assets — qualifies as disabled person's trust (DPT / s89 IHTA) if drafted to stricter Irish standard → no 6% charges + Irish CAT exemption.

- ❖ Spouse: Renunciation of Irish legal right share - potential transfer of value. Consider UK tax implications."