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Note d'information  
Newsletter

IN  
THIS  
EDITION

**BREXIT AND TAX ON THE SALE OF PROPERTY**  
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## BREXIT and tax on the sale of property

**T**oday when selling a property located in France, you may be liable for capital gains tax on the capital gain consisting of :

- income tax, at the rate of 19%, which is exempted after 22 years,
- social security deductions, at a variable rate, which are only exempt after 30 years.

The rate of social security contributions payable is :

- 7.5% for persons who are affiliated to a compulsory social security scheme of a state of the European Economic Area as well as Switzerland,
- but to 17.2% for persons affiliated to the social security system in France or in a third country.

In addition, the appointment of a tax representative is compulsory if the sale

price is over €150,000 and you reside outside the European Economic Area.

**The British therefore still benefit today from the «reduced» rate of social security contributions (7.5%). What will happen when the United Kingdom leaves the European Union?**

The French Directorate General of Taxation recently confirmed that nothing will change for British residents during the transition period that will last until 31 December 2020.

Thus, it must be concluded that :

- UK residents do not have to appoint a fiscal representative until 31 December 2020.
- the «reduced» rate of social security contributions (7.5%) is maintained for sales by non-UK residents.



As a reminder, the United Kingdom has decided by referendum to leave the European Union in June 2016.

## When are you considered as a French tax resident?

**T**he concept of tax domicile is at the heart of the rules of international tax law applicable to individuals. Indeed, it makes it possible to determine the extent of their tax obligations: Do you have to pay your taxes in France?

### What income is concerned?

Article 4A of the French General Tax Code establishes an essential division around the notion of tax domicile:

- Individuals domiciled in France subject to income tax on all their worldwide income,
- others not domiciled in France are only taxable on their income from French sources.

Knowing whether or not you are «domiciled in France» is therefore essential.

Whether you are French or not, the French tax authorities consider your tax domicile to be in France if you meet one of the following criteria:

- you have your home or your main place of residence in France ;
- you carry on a professional activity in France in France,

whether or not you are an employee  
- you have the centre of your economic interests in France.

You only need to meet one of these criteria to be considered as a French tax resident.

**H**owever, it is possible for the same taxpayer to be considered as a tax resident by two different States. France may consider that he meets one of these three criteria and another country may also do so on the basis of its own criteria.

There is then what can be called a conflict of residences which will be settled by the application of a bilateral tax treaty between two States if it exists. The vast majority of these tax treaties are modelled on the convention proposed by the OECD and provide for successive criteria for resolving this conflict of residence.

For example, in the Franco-British tax treaty, if a person is considered as a resident of both States according to their domestic law, Article 4-2 of the treaty of 19 June 2008 provides for successive criteria to settle

this conflict of residence. These criteria are in line with the OECD Model Convention. If one criterion clearly tilts the conflict towards one State, the person is resident in that State without moving on to the next, if it does not allow a decision to be made, the person must move on to the next criterion and so on:

**First criterion:** the permanent home - this is any form of dwelling that the taxpayer has on a permanent basis

**Second criterion:** the centre of vital interests: family and social relations, occupations, political and cultural activities of the person concerned,

**Third criterion:** the seat of its business, the place from which it administers its property, without establishing a hierarchy between its economic and personal links.

**Fourth criterion:** nationality.

It is essential to determine your tax domicile in order to know your tax system both in terms of direct taxes, such as income tax, and in terms of transfer duties, such as inheritance or gift tax.

# I AM WORKING ON MY PROPERTY IN FRANCE, DO I NEED TO APPLY FOR PLANNING PERMISSION?

**Y**ou wish to carry out work and you don't know what steps to take? The extension of your house or the change of your windows, do not require the same formalities. It is therefore important to be well informed about town planning regulations.

You may then have to apply for planning permission, which will enable the authorities to check that the project you wish to carry out complies with the planning regulations in force. Depending on the importance of your work, a prior declaration or a building permit may be required.

Some minor works do not require a building permit application, but their completion is still subject to obtaining a prior declaration. This can be :

- any new construction involving the creation of a surface area of between 5 and 20 m<sup>2</sup> and a height of less than 12 metres;
- extensions to an existing building with a surface area of between 5 and 20 m<sup>2</sup>. (40 m<sup>2</sup> if the works are located in the urban area of a municipality with a PLU(i)).
- walls with a height above the ground of more than 2 metres ;
- uncovered swimming pools with a surface area of between 10 and 100 m<sup>2</sup> or with a cover of more than 1.80 m ;
- works that change the external appearance of the construction (creation of openings, changing the door or window to another model, etc.)
- restoration work when the commune has decided to make it subject to prior declaration,

Some larger construction works require a building permit. These may include the following cases:

- the construction of a house;
- extensions of more than 20 m<sup>2</sup> in area (40 m<sup>2</sup> if the building is located in an urban area of a municipality covered by a (PLU(i)).
- garden sheds with a surface area of more than 20 m<sup>2</sup> ;
- terraces requiring an elevation with a ground area greater than 20 m<sup>2</sup>, covered terraces (awning or roof), terraces fitted out on a balcony ;
- works involving a modification of the load-bearing structure or the facade when they are accompanied by a change of use.

You must send the application for authorisation by registered post with acknowledgement of receipt or deposit several copies directly at the town hall.

Once a complete file has been received, the administration has a time limit for response which depends on the type of authorisation, ranging from one month to three months.

The authorization issued must then be posted on a sign visible from the outside and throughout the duration of the work.

Once the work has been completed, you must certify that the work has been carried out in accordance with the authorization obtained. A declaration of completion of the work must be submitted to the town hall for all urban planning authorisations once the work has been completed. City Hall officials can then visit the site within three months of receiving the declaration to check that the work conforms to the planning permission.

# ROCHE NEWS

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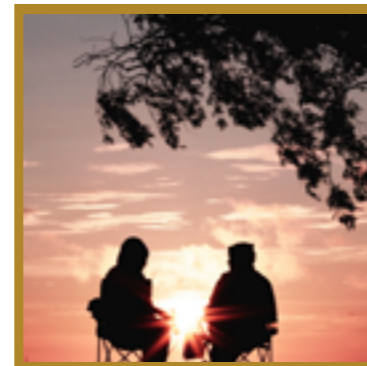
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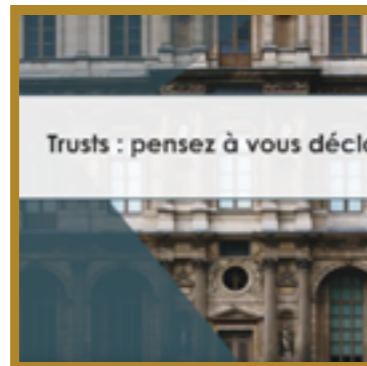
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