

## 2018 FINANCE ACT : THE REAL ESTATE TAXATION REFORMS IN FRANCE

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The draft budget law for 2018 was presented to the Council of Ministers on 27 September 2017. The text will then be discussed by the Parliament during the autumn for a vote at the end of the year. What provisions does it contain? What are the contributions and changes in real estate taxation?

### Real estate gains: beware of the rise from 1 January 2017

The **generalized social contribution (CSG) will increase by 1.7 points**, as of January 1, 2018, from **15.5% to 17.2%**.

This increase will impact the taxation of real estate gains, subject to a flat rate of income tax at a rate of 19%, as well as various social security contributions including the C.S.G.

In short, the sellers realizing a capital gain should pay next year slightly more tax than today.

Thus, let's take the example of someone releasing 40,000 euros of capital gain on the sale of a property held for 4 years. He must pay 7,600 euros of tax (19% on a base of 40,000 euros) but also of social levies - of which the CSG-, for an amount of 6,200 euros (15,5% on a base of 40,000 euros). In total, he/she must therefore pay 13,800 euros, corresponding to a total rate of 34.5% tax.

From 1 January 2017, the levies will be 6,880 euros (17.2% of 40,000 euros), leading to an additional cost of 680 euros. The tax rate will increase from 34.5% to 36.2%.

It is therefore advisable to sell as soon as possible and preferably before January 1, 2017.



### The Single Flat-rate Levy

The 2018 Finance Bill provides for the introduction of a Single Flat Levy ("PFU" or "Flat Tax") at a rate of 30% on the income from financial capital from 1 January 2018.

The PFU will apply to all personal capital income, except for Livret A and the Stock Savings Plan, which has been subject to a double contribution: Income Tax (IR), and social levies (generalized social contribution, contribution to the reduction of the social debt ...).

The single rate of 30% includes:

- a flat tax levy at the rate of 12.8%
- Social security contributions (CSG, CRDS, additional social security contributions). The rate is increased to 17.2% due to the 1.7 point increase in the CSG.

Note that the PFU will be optional: it will be possible to choose the progressive scale imposition of the Income tax if it is more advantageous. This option cannot be partial and will therefore apply to all income covered by the PFU.

The option for the PFU should be more favorable for taxpayers whose incomes are in the 14% tax bracket.

The revenues affected by the PFU include:

- **All movable capital income** (interest, distributed income, dividends and similar income), including the interests of housing savings plans and accounts (PEL, CEL) opened from 1 January 2018 (the interests of the PEL are 'now exempt from income tax for the first twelve years). The tax regime enjoyed by the PEA / PEA-PME is maintained. The 40% abatement on dividends subject to the PFU is removed (except in case of option for the progressive scale of the IR).
- **Income from life insurance policies up to the premiums paid as from 27 September 2017 when the total amount of the net outstandings exceeds 150 000 €** (the PFU applies in this case in proportion to the products outstanding this threshold).
- Revenues from life insurance subscriptions related to payments prior to September 27, 2017 will continue to be subject to the current tax regime.
- Gains on the sale of securities and other income and similar gains (in particular capital gains on the sale of securities and gains on underlying financial instruments). The allowance for holding period is abolished from 2018. Exception will be made for the sale of securities of SMEs subscribed within ten years of creation, which will benefit from the allowance for holding period "strengthened" when the securities have acquired before 1 January 2018. An allowance of € 500,000 will be applicable under certain conditions to the capital gains realized by the managers of SMEs leaving to retirement.
- **Certain capital gains and receivables falling within the scope of the "Exit tax" scheme.**

For dividends paid to individuals domiciled outside France, the withholding tax rate is also raised to 12.8%.

### Tax on real estate wealth

As of January 1, 2018, the wealth tax in France will undergo some changes. The Solidarity Tax on Fortune (ISF) will disappear and will be replaced by the Real Estate Wealth Tax (IFI).

The real estate wealth tax (IFI) will be based on the same principles as the current tax on fortune:

- Same scale,
- 30% abatement on the principal residence,
- Same tax threshold (€ 1.3 million).

The main difference is that the IFI will be refocused on real estate assets, now exempting financial assets (cash, securities, etc.) and movable property.

### What property will remain taxed?

Only property assets not allocated to the professional activity of their owner will be taxed. Whether held directly or indirectly, and regardless of the number of entities interposed between the taxpayer and the property.

In the case of indirect holding, only the value of the assets of the corporation representative of taxable immovables would be subject to taxation, without reference to the concept of real estate preponderance. However, it would not be taken into account when the equity interest in the company does not exceed 10%.

### Which liabilities will be deductible?

The deductible liability will be limited to taxes related to taxable real estate only. Income tax is henceforth excluded.

Loans “in fine”, that is to say, the principal of which is repaid only at the maturity of the loan, will only be deductible according to an annual depreciation coefficient. The aim is to restrict the fiscal leverage obtained in the context of certain real estate acquisition schemes by way of indebtedness.

Intra-family loans and loans corporate-related to the taxpayer will be excluded from the deductible liability.

The deduction of debts will be capped when the value of the taxable assets exceeds 5 million euros and the amount of the liabilities exceeds 60% of this value. In this case, the amount of the debts exceeding this threshold can only be deducted by 50% of this excess.

#### Example

So if the acquisition of a property worth 6 million euros is fully financed by a loan, it will not be fully deductible.

60% of the value of the property is fully deductible, that is 3.6 million euros. The remaining amount of € 2.4 million is deductible for only half, or € 1.2 million.

The deductible liability on this transaction is  $3.6 + 2,4 = 4.8$  million euros, or 80% of the value of the property.

## The case of new French tax residents

New French tax residents will still have their foreign property excluded from the tax base for five years.

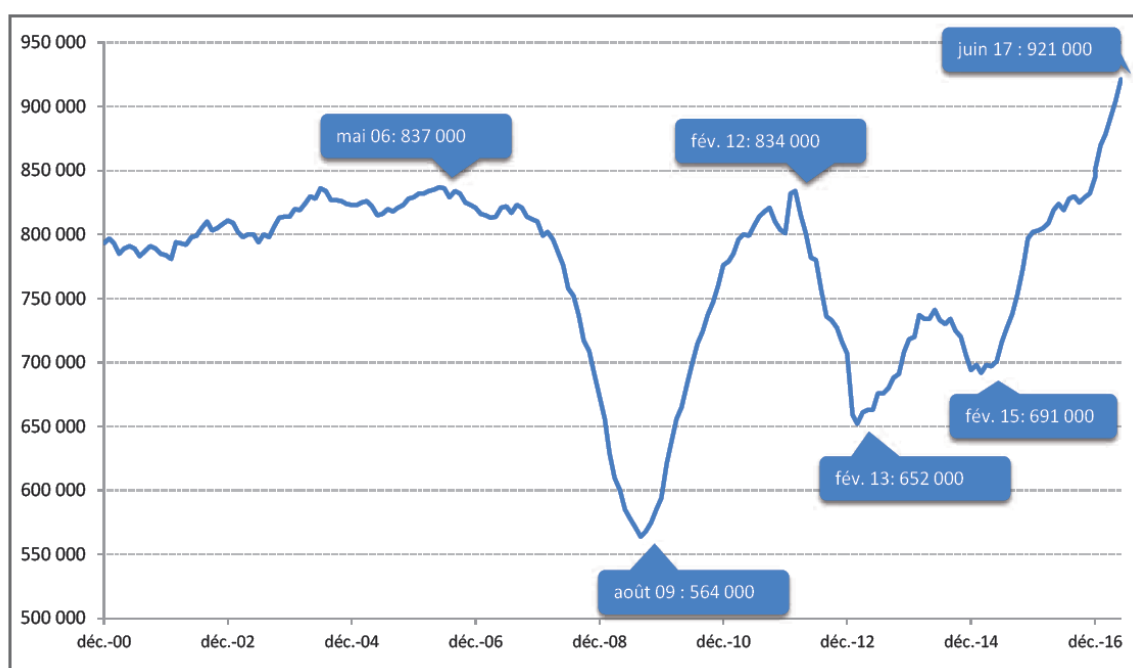
In fact, like non-residents, taxpayers who have not been domiciled in France during the five years preceding their installation in France are taxable only on their French real estate assets, and until 31 December of the fifth year following their arrival in France.

## Real estate situation: an exceptional transaction volume.

The volume of transactions in France continues to grow.

The volumes reached (921,000 transactions at the end of June 2017) are exceptional.

### Évolution des volumes des logements anciens pour la période 2000-2017



Source : CGEDD d'après bases notariales et DGFIP (MEDOC)