

**SALES OF FRENCH PROPERTY AFTER 1<sup>ST</sup> JANUARY 2004**

**HOW MUCH TAX DO YOU PAY?**

Under French law, an individual who owns a property in France, whether a tax resident or a non-resident is taxed on his capital gains on the sale of that property.

Real property capital gains apply to all types of real property and real property rights (usufruct, bare ownership or easement over land). The sale of shares of real property holding companies (e.g. SCI) is also deemed to be the sale of real property and subject to capital gains taxation.

The capital gain consists in the difference between the acquisition price increased by acquisition costs and any capital improvements and the sale price reduced by the sale costs at the charge of the Seller (to be detailed by decree).

The *Loi de finances* 2004 provides a new set of rules concerning the calculation and taxation of real property capital gains.

Until now, real property capital gains achieved by individuals or tax transparent companies (SCI) were calculated and declared to the Tax Administration by the Seller on a special tax return.

As from now, notaires are in charge of calculating the capital gain and paying the corresponding tax on behalf of their clients (in addition to transfer taxes and land publicity costs).

The new taxation regime can be summed up as follows:

**EXEMPTIONS**

For French tax residents: total exemption if the property is the primary residence of the owner on the day of the sale (suppression of the 5-year condition).

For other EU tax residents: total exemption if the property is the French residence of the owner as long as the owner has been a French tax resident for two years anytime before the sale;

Total exemption if the price is equal to or less than 15.000 Euros.

Total exemption if the sale is realised 15 years after the acquisition (instead of 22 years until 2004). This is a result of the 10% deduction each year, which becomes applicable from the 5<sup>th</sup> year of ownership (instead of a 5% deduction from the second year of ownership as previously allowed).

**CALCULATION OF THE CAPITAL GAIN**

If the acquisition costs cannot be established: a fixed allowance of 7,5 % of the acquisition price may be applied.

If the cost of capital improvements cannot be established (the new rules only allow you to deduct the costs of a professional carrying out the work by producing an invoice and proof of payment): a fixed allowance of 15 % of the acquisition price from the 5<sup>th</sup> year of ownership may be applied.

The cost of living indexation allowance has been abolished and this is compensated by the 10 % deduction each year from the 5<sup>th</sup> year of ownership (see above).

**FIXED TAX RATES**

For French tax residents: fixed rate of 26 %, instead of having the gain added to a progressive schedule and taxation on the day of payment of the sale price instead of being delayed to the next year as for the rest of the personal income tax;

For other EU tax residents: fixed rate of 16 %.

For non-EU tax residents: fixed rate of 33,1/3 %.

**EXAMPLE OF CAPITAL GAIN CALCULATION**

<b>(I)</b>	<b>Sale price (2004):</b>	<b>1,500,000</b>
<b>(II)</b>	<b>Acquisition price (1997):</b>	
	Gross price:	800,000
	Acquisition costs (7,5 %):	60,000
	Improvements (15 %):	120,000
	<b>Total (II):</b>	<b>980,000</b>
	Capital gain (I – II):	520,000
	Deduction for over 5 year ownership (2x10%)	104,000
	Standard Deduction per sale	1,000
	<b>Net capital gain:</b>	<b>415,000</b>
	<b>Taxation:</b>	
	French tax residents (26 %):	<b>107,900</b>
	Other EU tax residents (16 %):	<b>66,400</b>
	Non-EU tax residents (33,1/3):	<b>138,333</b>

If you would like to have a calculation made of the amount of capital gains you would pay, please contact us for further information.

**NB:** Any non-resident should also enquire as to the amount of any capital gains tax payable in his country of residence in respect of the sale.

23 January 2004