

MOVING TO FRANCE: VIVE LA DIFFERENCE!

As the seemingly endless number of TV programmes such as “No looking back”, “A place in the sun” and “French Leave” never cease to remind us, buying a home in France is only the first step in what can be a difficult and lengthy process of adaptation to the French way of life. As well as the obvious language and cultural differences, the French tax and administration systems all differ significantly from ours. Threading the maze successfully involves identifying the relevant internal French procedure or rule and then ascertaining if any additional or different analysis may be required because of foreign nationality or residence or domicile status.

Succession rules

Most purchasers of property in France have heard that the French law of inheritance gives “entrenched” rights to children or parents, but relatively few have any idea of what this means in practice or how it could affect them. It is crucial that a *French Will* is made which covers the succession to the property on death, to ensure that the surviving spouse is given maximum rights under French law. This may be:

- that part of the estate which the testator may freely dispose of to his spouse, i.e. one half if he or she has one child, one third if there are two children or one quarter where there are three or more children; or
- one quarter of the estate absolutely and a life interest in the other three quarters; or
- a life interest in the whole estate.

Where there are children from previous marriages the surviving spouse will have to share ownership with any stepchildren.

If after consideration, the effects of these French inheritance law entrenched rights are not considered acceptable, alternative methods of ownership may be more suitable. As these will depend crucially on individual circumstances, in an ideal world a review of the family situation and intentions should be conducted before the purchase takes place to ensure the widest options. The property could be taken in one name only or perhaps in differing percentages; it may be opportune to opt for a change of marital property regime under the terms of the Hague Convention applicable to matrimonial regimes of 14 March 1978.

Domicile

The French rules of domicile may well introduce a further complexity. Under these rules an English national who takes up permanent residence in France will in all likelihood be considered after a very short lapse of time to be domiciled in France. This will mean (issues of private international law aside) that prima facie the worldwide movables of the English expatriate will be subject to the French rules of succession, which give entrenched rights to children and parents. Relatively few couples taking up residence are sufficiently aware of this point and the effect that this could have on the survivor should one spouse die, particularly where the marriage was a second or third one for the deceased.

Inheritance Tax in France

Inheritance tax (*droits de succession*) in France is payable on the death of an owner of French property whether or not resident or non-resident in France prior to death. The rate is calculated by reference to the relationship of the beneficiary to the deceased, and inheritance tax is payable by the beneficiary. In the UK inheritance tax on death is not usually payable on transfers between spouses, but in France inheritance tax will be payable on such transfers, subject to a fairly modest allowance of 76,000 euros. Each child has a personal allowance of 46,000 euros for transfers on death on values received from each parent. In both cases, tax is then payable in banded rates up to a maximum of 40%. As will be appreciated, in France the more children there are the lower the total tax payable!

In France a different inheritance regime operates for non-familial transfers. This means that transfers between *unmarried couples* as well as other transfers to non-relatives will trigger a 60% tax charge subject to a nominal allowance.

The importance of a British owner of French property understanding the full impact of French inheritance tax in the event of a death in addition to the interaction with the UK inheritance tax rules cannot be over-emphasised. Wills for both England and France should of course be put in place and careful drafting will be required to ensure that there is no implied revocation or duplication in either Will.

Gifts tax is also payable in the event of lifetime gifts; this is usually computed as a reduced rate of inheritance tax.

Wealth Tax

Wealth tax can also be a surprise for the uninformed! This is payable by non-residents on their French assets; this will include the property calculated by reference to market value as at 1 January in any year. Wealth tax is paid annually and will be due if French assets total in excess of 720,000 euros in any year.

Income Tax

Many property owners rent out their properties for a portion of the year to generate additional cash to cover the running costs. Even if both owner and tenant are English and the rent is paid in sterling, the owner is liable in France for French income tax on any income received. France has introduced a simplified tax system whereby non-professional landlords with modest rental incomes may declare the gross amount of their income and accept the direct application of a global 70% allowance to cover expenses. Again UK tax responsibilities must be remembered and the amount of the rent must be entered in the owner's UK Tax Return.

Employment

It is illegal to employ someone in France unless the employment is fully declared to the appropriate authorities and the relevant social security payments made. The employer is responsible for accounting for both employee and employer payments, which are calculated on the net income, paid to the employee. Combined employer and employee social security contributions are in excess of 60% of the net salary and great care must be taken when taking on an employee to ensure that the appropriate registration steps are taken and that French law is complied with in all respects. It is not possible, for instance, to employ a cleaner at home on a casual cash payment basis. Such a *paiement au noir* is illegal and can result in criminal sanctions, particularly if a dispute arises or if the individual is injured on the employer's premises.

This is in direct contrast to the English approach to casual employment which does not translate into the French system. A useful scheme called "*chèque emploi service*" can be used for private individuals employing staff to work at home on a temporary or permanent basis and this does assist very greatly with the French administration procedure and the payment calculations that are required under French law.

The amount of administration in employing an employee should not be underestimated and it would be wise to research the total cost prior to agreeing a net salary! Because rights for employees on termination of a contract are wide-ranging, proper advice should be taken prior either to taking on an employee or terminating a contract. A written contract should be signed prior to the employment commencing.

Residence Permits

Provided that you have a passport from the EU, if you wish to take up permanent residence in France, you are no longer required to obtain a residence permit. Until very recently individuals who were resident in France for more than 90 days were required to obtain a permit depending on their status (long-stay visitor, salaried employee, student etc). This has now been abolished. However, the rules for obtaining residence permits still apply for anyone becoming resident and who does not possess a European passport. These people will still be required to obtain and maintain a permit.

The new rules will simplify the position for EU Nationals, as it was not always easy to decide when a residence permit was required or not.

Someone living and working in France will normally be covered by the French social security scheme and retirees over 65 (over 60 in the case of women going to live permanently in France) can receive French social security benefits including medical cover on the basis of their contributions made in the UK. A person who has taken up residence in France and who is not covered by the social security scheme will be covered by the compulsory universal medical cover (*couverture maladie universelle*) for which they will be required to pay a contribution amounting to 8% of total income above a certain threshold.

Conclusion

You should never assume that French rules and UK rules are the same, even when dealing with what appears to be a familiar situation. Often there may be crucial differences.

A specialist adviser can help to avoid the pitfalls and costly mistakes.

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