

ALL CHANGE FOR FRENCH CAPITAL GAINS TAX RULES

New rules apply to the Capital Gains Tax (CGT) due on the sale of a property in France which have simplified the calculations and reduced the tax payable in France overall.

As before, the basic rule is that you will pay CGT in France on the sale of your property calculated by reference to the difference between the purchase price plus purchase costs, less the sale price and the sale costs.

According to the new Finance Act 2004, the Notaire will now be responsible for calculating the capital gain and paying the tax on behalf of clients.

How do I calculate the CGT payable?

If the sale price is less than 15,000 Euros, then there will be a complete exemption from French CGT.

For sales after 1 January 2004 there will be total exemption of the French tax if the sale occurs more than 15 years after the date of acquisition. Previously, full exemption was only given after 22 years.

Owners who sell property after more than 5 years of ownership, but less than the full 15 will be entitled to a 10% deduction for every year after the initial five-year period. For instance, if a property has been held for 9 years, then there will be a 40% deduction of the total tax due.

The method of calculation has been simplified which should help property sellers. If the acquisition costs cannot be established with certainty, then a fixed allowance of 7.5% of the original purchase price may be applied.

As regards the costs of capital improvements, e.g. a new roof, then the new rules require you to produce an invoice and proof of payment to the professional who carried out the work. You will no longer be able to deduct the cost of any materials that you purchased yourself or any labour you carried out on the property. Only the cost of work carried out by a professional will be allowed on proof of payment.

This is not unduly harsh however as it is compensated by a new rule: if you do not have deductible invoices or if it is more favourable to you, you will be allowed a 15% fixed deduction of the purchase price for works. This deduction only applies from the fifth year of ownership onwards and is granted to represent the cost of any capital work carried out on the property. The allowance is fairly generous in most cases and will avoid the need for keeping detailed records and proof of payment. It will also be able to be used when the work is carried out by the owner himself.

To compensate for the increased deductions after the first 5 years, the costs of living indexation allowance, which was previously applied, has been abolished.

What rate of CGT will I pay?

French residents pay the equivalent of 26% tax (16% CGT plus 10% special social contribution).

For non-residents who are resident elsewhere in the EU, there is a standard rate of tax of 16%. The 10% special social contribution is not levied on non-residents. For non-EU tax residents, the standard rate for non-residents is maintained at 33.3%.

The requirement to appoint a Tax Representative if you are non-resident who will represent you in connection with any negotiations with the Tax Office has not changed. When an authorised company, e.g. the SARF, is appointed to act in your place a cost of 0.75% or 1% of the sale price will be charged.

It is clear that, from a French perspective that the tax calculation has been simplified and the amount of tax reduced for a number of Sellers. However, please do not forget to consult your UK tax advisor as to the amount of CGT that will be due in the UK on the sale of your French property. These rules remain unchanged and tax may also be due in the UK. In this case the overall position for many UK residents selling property is likely to remain unchanged – you will receive a credit for the tax you have already paid in France in respect of the same transaction under French rules and will have to pay the balance over in UK tax.

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