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For tax purposes, furnished letting is treated in France as a commercial activity, which can affect how letting profits are calculated, reported and taxed. It may also impact how the property is subject to local rates and how it is treated for capital gains tax. In addition, since 2009 tax law has made a distinction between holiday letting activities and furnished letting investments with important consequences under the *Régime Micro-BIC*.

N.B. If the net value of your French properties exceeds the threshold of €800,000 as at 1/1/2011, a wealth tax return may also be required, to be submitted by 15th July for non residents living in Europe, and 31st August for non residents outside Europe.



N.B. A website has just been launched by the French administration to facilitate the formalities of declaration and classification for gîtes and meublés de tourisme. www.classement.atout-france.fr

RE: FRENCH PROPERTY

SUBJECT: FURNISHED HOLIDAY LETTING BY A NON RESIDENT

We review below the French tax rules currently applied to furnished letting of French property by non-resident owners.

YOUR TAX OBLIGATIONS

Any income or capital gain arising from a French property is subject to declaration and taxation in France, whether the property is owned by a resident or a non resident of France. A non resident will probably also need to declare the income or gain in their country of residency. When a double taxation agreement with France is in force, a tax credit will be granted in the State of residency for any tax paid in France.

The French tax year runs from 1st January to 31st December. Non residents are required to file an annual declaration of French-source income for the previous year (form n°2042) with the Centre des Impôts des Non Résidents in NOISY LE GRAND by 30th June for residents of Europe, Mediterranean countries, North America and Africa, and by 15th July for residents of Central and South America, Asia and Australia.

An assessment is issued during the summer for payment by 15th September. After the first year, a system of payments on account applies, whereby interim payments are demanded on 15th February and 15th May, each for one third of the previous year's tax assessment. The September 15th demand is then a payment of the balance due after deduction of the interim payments made on account.

SIRET AND APE ACTIVITY CODE



Non-professional landlords need to declare their holiday furnished letting activity to the local tax office, using form POi, and select a tax option. Further to this registration, a SIRET number is given and an activity code, which should be 55.20Z (*Hébergement touristique et autre hébergement de courte durée*). This code applies to seasonal letting of furnished accommodation and is more relevant than Code 68.20A *Location de logements*, which applies to residential property lettings, empty or furnished.

REGISTRATION WITH THE MAIRIE AND OFFICIAL CLASSIFICATION

Owners of holiday let properties are required to register their property with the local *mairie* (declaration form n°14004).

It is also compulsory to declare a B&B activity to the local *mairie*.

A rented property can also be given a

classification further to an official inspection, either by the *Prefecture* as *Meublé de Tourisme classé* or under a commercial brand such as 'Gîte de France'.



Proof of official classification may be required to benefit from favourable tax treatment as gîtes or Meublés de Tourisme.

BUSINESS REGISTRATION AND THE AUTOENTREPRENEUR REGIME

Registration with the Chamber of Commerce on the *Registre du Commerce & des Sociétés* (RCS) is optional and, as a matter of fact, not relevant in the case of a non-resident owner.

Such RCS registration, as well as registration under the simplified *autoentrepreneur* regime, makes rental income subject to social levies and allows the benefit of health cover and contribution to an old age pension under the self-employed social security regime (*Régime Social des Indépendants*).

On the other hand, RCS registration is necessary (but not sufficient) to benefit from the *loueur en meublé professionnel* tax status allowing:

- ▶ the deduction of losses from other taxable income ;
- ▶ small-business CGT exemption (after 5 years).

CALCULATION OF LETTING PROFIT – TAX OPTIONS



Allowance is made for letting expenses and the net profit after expenses is taxed, in the category of *Bénéfices Industriels et Commerciaux*, commonly referred to as BIC.

Individuals (not companies or partnerships) may employ a tax option called *Régime Micro-BIC*, which deducts a flat percentage of receipts in place of itemized expenses. Under *this regime*, available for takings below €81,500 in 2011, expenses are deemed equal to 71% of letting receipts. Consequently the net taxable profit will be calculated at 29% of the receipts.

Under French tax law, the 71% abatement and €81,500 threshold apply only to classified *Gîtes* and *Meublés de Tourisme* and to B&B declared to the *mairie*. The Micro threshold and set abatement applying to other furnished letting activities are €32,600 and 50%.

The alternative option to the *Régime Micro BIC* is the *Régime Réel BIC*, whereby profit is calculated on an actual basis by preparing

N.B. Régime Réel BIC can allow a reduced profit to be shown, or even a loss, but it is not recommended in the case of annual takings below €23,000. The Régime micro is usually more favourable than itemized expense reporting, unless substantial mortgage interest can be deducted.

letting accounts. Expenses appropriate to the nature and scale of the business are itemized and deductible against profits from the business. Capital expenditure on refurbishment, furnishings and equipment are capitalized and depreciated over their estimated useful lives, the annual depreciation charge being deductible as an expense. A full balance sheet is required, prepared to French accounting standards, and a business return (form n°2031) needs to be submitted to the local tax authorities each year.

LEASEBACK SCHEME

Under a leaseback scheme, the buyer of a property agrees to lease it back to a furnished lettings management company for year-round rental over a period of 9 to 20 years and, in return, receives a refund of the VAT included in the purchase price.

Leaseback schemes are a popular way to purchase a property in France because of the attached financial advantages:

- ▶ financial requirements are reduced thanks to the initial VAT refund,
- ▶ annual rental income is guaranteed in most cases,
- ▶ the buyer may be allowed an amount of personal occupancy, which is usually the case for a property located in a tourist area (seaside or ski resort),
- ▶ any loss resulting from leaseback activities, quite frequent during the first years due to loan interest and purchase costs, can be carried forward 10 years.

Non residents of France are not concerned by some aspects of leaseback schemes:

- ▶ they are not admitted to run their leaseback operation as a French business registered with the French social security agencies,
- ▶ they cannot benefit from various tax incentives such as i) the deduction of leaseback activity losses from other types of income ii) or the tax credit granted to members of associations called *Centres de Gestion Agréés (CGA)*.

VAT

Provided the management company meets various requirements, leaseback activities may be subject to VAT at the buyer's option, meaning:

- ▶ a claim can be made for the refund of VAT included in the purchase price and purchase costs,
- ▶ VAT included in the annual rental income, reduced by the amount of VAT included in annual expenses, is to be repaid every year to the French State,
- ▶ Interrupting the leaseback scheme before

the end of a 20-year period following the purchase requires the initial VAT refund to be repaid to the French State proportionally to the number of years remaining.

The usual VAT rate for leaseback activities is currently 5.5%.

CALCULATION OF PROFIT AND LOSS

Leaseback income is subject to income tax according to the *Régime réel BIC* rules, meaning after deduction of actual expenses (purchase costs, interest, insurance, bank fees, accountant's fees, furniture ...) and depreciation of the purchase price of the property.

Any loss resulting from leaseback activities can be carried forward 10 years to offset profits of the same nature.

INCOME TAX RATES

Non residents are subject to a minimum tax rate of 20% on their net taxable French-source income. However, if the average tax rate resulting from the application of the progressive tax rate scale to their household's worldwide income is below 20%, then one can apply for taxation under the average tax rate, subject to justifying the level of the household's worldwide income (of course, only the French-source income is taxable, not the worldwide income).

Assuming a profit of 29% under the *Régime Micro-BIC* and an income tax rate of 20%, the total income tax may therefore be budgeted at 5.8% of gross takings.

Currently, income tax below €305 is not collected by the non-residents tax office – so takings below €5,258 declared under the *Régime micro-BIC* with the 71% abatement would result in no income tax being payable at all in France.

N.B. Non residents of France are not eligible for any French tax credits, with the exception of the tax credit attached to works concerning tourist properties in "Résidences de tourisme classées" located in tax areas classified as "Zones de Revitalisation Rurale" (ZRR) that are let out **unfurnished**.





PROPERTY TAXES

Taxe foncière is levied each year on the owner of a property as at 1st January and payable by 15th October.

Taxe d'habitation is levied each year by the occupier as at 1st January and payable on 15th December for a secondary house. If the property is vacant or rented for short periods only, then the owner pays it. A separate bill may be issued for refuse collection (ordures ménagères).

These taxes are due whether the property is a main or a holiday home and whether the owner is a French or foreign resident. They are based on the rental value of the property and are split between contributions for the Commune, Department and Region.

A contribution à l'audiovisuel public of €121 in 2010 (TV licence) will be added to your Taxe d'habitation bill if your French house is equipped with a television set on 1st January. Whether you can watch French programmes on it is irrelevant. The tax is due if you have a TV set.

Business rates - Contribution Economique Territoriale (CET) may be levied instead of Taxe d'habitation, where the property is used regularly for furnished letting. There is an exemption of CET for classified Gîtes or Meublés de Tourisme or when the owner reserves the property for himself part of the year (CGI art 1459). However, this exemption may be suspended in whole or in part by an annual vote by any of the local authorities (Commune, Department or Region). The way to find out is to apply for it.

In some parts of France, the collection of a Taxe de séjour (Visitor tax) may also be made compulsory by the local authorities.

CAPITAL GAINS TAX

The gain arising on sale of a property used for non-professional furnished letting is subject to the regime of *plus-values immobilière privées* (private capital gains tax on real estate).

For non-resident individuals living in a European Union member country (plus Iceland and Norway), such capital gains are taxed at a flat rate of 19% from 2011.

Other non residents are taxed at one third of the gain (flat rate 33.1/3%). Non residents are NOT liable for Social contributions (currently 12.3%).

For calculation of the gain, expenses for construction, reconstruction, extension or improvement can be offset, provided the work was carried out by a registered firm (invoices and proof of payments will be required - DIY expenses do not count) and the expenses were not already taken into account for income tax purposes. In principle, the eligible

purchase and refurbishment costs are those after deduction of any depreciation previously deducted against letting profits. Expenses are not indexed for inflation. For properties sold more than 5 years after acquisition, a standard allowance of 15% of the cost price may be deducted in place of itemised expenses, regardless of whether expenses were incurred or deducted for income tax purposes.

The resulting gain is reduced by 10% for each complete tax year over five years that the property is held. Thus, after 15 years the gain is exempt. A further abatement of €1,000 (€2,000 for a couple owning the property jointly) is applicable.

Capital gains tax is self-assessed and payable in full at the time of the sale. It is collected at source on registration of the sale by the *notaire* (form n°2048).

A non resident is obliged to employ a tax representative in France, who will guarantee the calculation and payment of any tax due, whenever the sale value exceeds €150,000.

N.B. For more detailed information on French capital gains tax, please read our information note on the subject.

*Taxation is a complex subject.
Full independent advice on
the particular facts of a case
should be sought.*

*Kindly note that our firm provides
fiscal counsel only to clients for whom
we prepare regular tax
declarations.*

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