

RE: FRENCH PROPERTY – FURNISHED LETTING, GITES AND B&B SUBJECT: TAX REFORM AVOIDED BY A WHISKER FOR HOLIDAY LETTINGS

February 2010

The reform of the furnished letting tax regime, as set out in the draft *Loi de finances* for 2009, aimed to reduce access to the status of *loueur en meublé professionnel* with a view to limiting tax avoidance opportunities. Incidentally (not to say insidiously) the reform was going to have a significant impact on rural tourism as all furnished holiday lettings subject to the micro-BIC tax regime would have seen their abatement for expenses reduced from 71% to 50% of rental receipts.

We will take a look below at the legislation now applying to gîtes and B&B, which fortunately, thanks to the mobilisation of the main federations for rural tourism and the intervention of certain French MPs, were finally allowed to benefit from the 71% micro-BIC abatement.

The tax status of gîtes ruraux, chambres d'hôtes and meublés de tourisme is not restricted to any specific area

The final law is not crystal clear. In order to define the furnished letting activities excluded from the new regime, it refers to article 1407 of the *Code General des Impôts*. This article provides for communes located in a *Zone de Revitalisation Rurale* (ZRR) to vote for an exemption of the *taxe d'habitation* for letting activities referred to as *gîtes ruraux, chambres d'hôtes* and *meublés de tourisme*. At first sight, it could be believed that only furnished holiday lettings properties located in ZRR could benefit from the 71% abatement and that those outside would be subject to the

50% abatement. However careful study of the parliamentary debates shows that this was clearly not the intention of the legislator. The reference to article 1407 is only to define the qualifying letting activities, without taking their geographical location into account.

The tax status of furnished holiday lettings does not require quasi hotel activities

During the parliamentary debates, Mme Christine Lagarde, the French Minister for the Economy, Industry and Employment, declared that *gîtes* would not suffer from the furnished letting reform because they were classified as *parahotellerie*.

Parahotellerie or quasi-hotel activities are characterised by the provision of at least 3 of the following services in addition to accommodation: regular supply of linen, meals or breakfast, reception desk, daily cleaning. *Parahotellerie* activities are not concerned by the furnished letting reform.

However, the final legislation does not refer at all to *parahotellerie*. Furnished holiday letting is expressly excluded from the reform, but no provision of services in addition to accommodation is required.

Applicable Micro-BIC rules

From 2009, furnished letting activities under the micro regime are subject to the threshold of €2,000 and 50% abatement applicable to service activities. However, this does not apply to *gîtes ruraux, meublés de tourisme* or *chambres d'hôtes*, which benefit from the €80,000 threshold and 71% abatement applicable

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to sales and supply of lodging activities in 2009. For 2010, the relevant threshold is set at €80,300.

The property does not have to be located in a *Zone de Revitalisation Rurale* (rural areas offering specific tax relief to new businesses). No specific services as in quasi-hotel activities need to be supplied in addition to the lodging.

SIRET and NAF activity code

A furnished letting activity needs to be registered with the local *Centre des Impôts* (using CERFA form POI). Further to such a registration, a SIRET number is given and a 55.20Z NAF CODE (*Hébergement touristique et autre hébergement de courte durée*). This code applies to seasonal letting of furnished accommodation. (Code 68.20A *Location de logements* applies to residential property lettings, empty or furnished).

RCS registration

Registration with the Chamber of Commerce on the *Registre du Commerce & des Sociétés* (RCS) is optional. It makes the rental income subject to social levies and allows you to benefit from health cover and to contribute to an old age pension under the self-employed social security regime (*Regime Social des Indépendants*).

This purpose will also be achieved by registering as an *autoentrepreneur* (regime *micro-social simplifié*). Under this status, you declare your furnished holiday letting takings quarterly and pay 12% of your takings in social levies or 13% if you also opt for payment at source

of income tax (*versement libérateur de l'impôt sur le revenu*).

NB: RCS registration is necessary to benefit from the *loueur en meublé professionnel* tax status enabling you to deduct losses from other taxable income, but it is not enough. There are two other conditions to fulfil: annual receipts must be above a minimum of €23,000 and must exceed your other net taxable earnings.

Meublé de tourisme classification

A furnished holiday letting property can be officially classified via a declaration to the Mairie as a *Meublé de tourisme*, but this is not mandatory. On the other hand, it is compulsory to declare your B&B activity to the *Mairie*.

You may also register the property with a commercial brand such as *Gîte de France*.

Paperwork to be kept

In order to be able to complete your income declaration, you need to keep the following for 3 years after the tax year concerned:

- a note of all the rent you received and the dates you rented out the property
- a record of your expenses
- sales receipts, invoices and bank statements

These notes are for general information only and are not intended to provide legal advice.

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