

MOVING FROM FRANCE BACK TO THE UK

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When considering a move back to the UK after spending time living in France there are a number of taxation issues to think about. If possible, it is best to think through all of the implications well in advance of your move as there may be expensive traps to avoid or even opportunities to reduce your tax bill.

Residence

In order to know what basis of taxation applies in both France and the UK it is necessary to establish your residence status in each country for each tax year. This is not always a straightforward exercise as many factors need to be considered. Furthermore, there are differences between the two countries' tests for residence and tax years.

Most people who consider themselves to be living in France will be resident for tax purposes in France and not resident for tax purposes in the UK. However, other combinations may apply depending on a variety of factors, including time spent in each country, the length of time away from the UK, the availability of accommodation and family and social connections.

UK Domicile

Non-UK domiciled individuals are those that do not consider the UK to be their permanent home. Non-domiciliaries resident in the UK can elect to be taxed on the remittance basis. That is where UK tax is only paid on UK source income and capital gains and remittances to the UK of foreign income and gains.

Depending on your intentions when you originally moved away from the UK, you may have adopted a French domicile either at that time or later on. However, it is likely that upon your return to the UK your UK domicile will revert.

Note that the French legislation does not view domicile in the same way as the UK.

Income Tax

Residents of France are generally taxed on their worldwide income. A person who is not French resident, on the other hand, is only taxed on their French sources of income. The same distinction is used in the UK for determining the person's UK basis of taxation.

Both the French and the UK tax systems allow for the tax year to be split such that the basis of tax can change mid year at the point in time that your residence status changes. It should, therefore, be possible to move back to the UK with no overlap period of being resident in both countries. The UK personal allowance is not reduced when the year is split.

Some sources of income will remain taxable in both the UK and France. However, double tax relief is generally available to prevent tax being paid twice. For example, rental income received on a French property by a resident of the UK is taxable in France as well as the UK but relief can be claimed to reduce the UK tax bill by some or all of the French tax paid.

For non-UK domiciliaries the remittance basis can be claimed and there is no fee in the first seven years of residence. However, the personal allowance (as well as the Capital Gains Tax annual allowance) is lost. No claim is needed, and thus allowances are not lost, where the unremitted foreign income and gains in the year are less than £2,000.

Capital Gains Tax

For residents of France, French Capital Gains Tax (CGT) is payable on any gains realised on the disposal of capital assets wherever they are situated. At present, non-UK residents do not pay UK CGT on gains on disposals even if the asset disposed of is situated in the UK.

From 6 April 2015, the UK CGT law is intended to be extended to non-UK residents disposing of UK residential property. However, if you have been non-resident in the UK for less than five tax years then you are potentially exposed to UK CGT in the year of return on any disposal of assets in the intervening period that were owned before you left the UK.

If you are holding assets which you expect to sell realising a gain, it is a good idea to work out roughly how much CGT would be payable if you sold them before your move and after. There may well be a substantial difference depending on the different reliefs that are available. The timing of any sale will need to be thought out carefully.

Like the UK, France grants a principal private residence exemption from the CGT. A person who returns to the UK may benefit from a French CGT exemption on the sale of any property they have kept in France provided they have completed at least two full tax years of French residence at some stage prior to the sale. There are other strict conditions in cases where the French property has been let out.

Certain assets, such as investment portfolios, may be taxed to French CGT by way of an exit charge when the investor becomes non-resident.

Inheritance Tax

Anyone who is domiciled (or deemed domiciled) in the UK is liable to Inheritance Tax (IHT) on their worldwide assets. Non-UK domiciled individuals are only liable to IHT on assets situated in the UK. Your UK residence status does not affect your exposure to IHT on your chargeable lifetime gifts or your estate at death.

If a trust is set up by a non-domiciled (and non-deemed domiciled) person, the assets within the trust continue to be treated as the assets of a non-domiciled person even if the person subsequently become domiciled or deemed domiciled. Caution should be observed when setting up trusts and you would be advised to seek specific tax advice before doing this.

Any French home owner who dies outside France is exposed to French inheritance tax on that asset and any others situated in France. It is therefore important to seek advice since a departure from France is likely to trigger the need to rethink one's estate planning.

In addition, it is important to be aware that French connected trusts, that is to say with French resident parties or French situs assets, are now subject to draconian reporting obligations since 31 July 2011. Omissions give rise to hefty penalties. The reporting in itself, which has to be submitted by the trustees, usually triggers French tax consequences for the trust parties. It is important for all involved to seek advice on these issues. Further, some information on these issues is available in our "French Tax and Trusts" info-sheet.

Wealth Tax

Non-residents of France are only exposed to French wealth tax if their net French assets (excluding investments) as at 1 January exceed €1.3m. French residents are normally assessed on a worldwide basis. In both cases the assets of the household, including that of partners, spouses or dependents, must all be added to appreciate if the limit is exceeded. Newcomers to France benefit from a five year wealth tax exemption on assets held outside France. This temporary exemption renews for UK nationals who leave France and remain outside France for at least three complete tax years before returning.

Contacts

If you would like further advice or information in relation to the issues outlined within this document, please do not hesitate to get in touch with your usual BDO contact or any of the individuals listed below:

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