

## LOOKING TO SELL YOUR SECOND HOME? HERE'S HOW BREXIT COULD AFFECT YOU



### What is the French system of capital gains?

The capital gains of individuals or tax transparent entities are subject, as defined by article 8 of the *Code Général des Impôts* (CGI), to French income tax on the sale of immovable property or an interest in such entities. There are exemptions for the individual's main residence or where the sale price is less than €15,000. There are also exemptions for the residences of European Economic Area (EEA) nationals who have been residents of France for two consecutive years before the sale and are still in occupation of the property on 1 January of the year before the sale (aimed at French expats).

### The notary and representative

The conveyancing *notaire* (notary) is responsible for calculating the capital gain and paying the tax that will be withheld from the proceeds of the sale. Therefore, French capital gains tax must be paid upfront. The French Revenue then has until 31 December of the third year following completion to enquire about the declaration after which a statute of limitation applies.

To guarantee a claim over the period, residents outside the EEA are required to appoint a *représentant fiscal accrédité* (tax representative). A tax representative will typically charge 0.7% to 1% of the sale price. Sales under €150,000 (or at a loss) are exempt.

French residents have been subject to a series of social security contributions, representing an extra payment due of 17.2% since 1 January 2018 making capital gains subject to a 36.2% tax in total.

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## **Court of Justice decision**

In its National Insurance Budget 2019, the French Government confirmed that as a UK resident, the situation post-Brexit will mean that you are now subject to CSG and CRDS at the full rate of 17.2%.

## **Tax Credit Set Off**

As the French taxes are income and social security, they are treated as sales expenses in the UK and not deducted/allowed as a tax credit, reducing the UK CGT liability. This is usually a less tax-efficient use of the French withholding tax.

## **How we can help**

Our team of fully qualified tax specialists can assist you with this matter, or can liaise with other tax representatives on your behalf to bring clarity to your situation. As always, to speak to a team member, contact us on **01753 888211** or email **info@nhllp.com**.