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## Property sales in France by UK residents

UK resident individuals with property in France need to be aware of changes in the French tax process following the UK leaving the European Union. These changes came into effect after the end of the transition period on 31 December 2020.

The changes include an increase in the rate of French tax payable and the requirement for UK residents to appoint a French tax representative, which will involve extra cost and administration.

### General rules

There are exemptions which apply to a main residence or property which has been owned in excess of 30 years. However, subject to the exemptions, both Capital Gains Tax and social surcharges 'solidarity tax' are payable in France on the gain arising on disposal.

Prior to 1 January 2021, the calculation of the French taxes to be withheld on sale were usually agreed directly with the local notary office.



Thereafter, the French Revenue authority would then have until 31 December of the third year following the completion to enquire into the submission. After the three years had elapsed the statute of limitation would apply and the taxpayer would have certainty that no further tax would become due.

This calculation would recognise purchase costs and capital improvement costs in addition to the main purchase price thereby reducing the taxable gain, although if purchase costs could not be established a fixed 7.5% of the original purchase price could be added. Similarly, for capital improvements, in the absence of supporting evidence such as paid invoices, a fixed 15% of the original purchase price could be added, but only if the property had been owned for more than 5 years.

The rates of tax applicable would depend upon the length of time the property had been owned and the size of the gain. The longer the property is owned, the more heavily the rate of tax is discounted. However, for the first five years of ownership, the maximum tax rates applicable were 19% Capital Gains Tax plus 7.5% of solidarity tax resulting in a total charge of 26.5%.

In addition, there is a supplementary rate of tax payable on gains of over €50,000. The supplementary rate is between 2% and 6% depending on the size of the gain.

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## From 1 January 2021

- The rate of the solidarity tax has been increased to 17.2% which brings it in line with the rate applied to French residents and results in a total rate of 36.2%.
- The sale of a property by a non-resident of France requires the appointment of a French tax representative to deal with these matters and secure the same rights to the statute limitation as before.

There are dispensations from appointing a tax representative:

- Where the seller lives in an EU member state or a country in the EEA.
- For sales of €150,000 or less.
- For sales allowing for capital gains exemption owing to the duration of ownership of the property (22 years for CGT and 30 years for social surcharges).

The tax representative is likely to charge in the region of 1% of the sale price, so this represents an extra cost for UK residents to take into account.

In addition, please be aware the tax representative may require a higher burden of proof for expenditure, such as enhancement expenditure, than would have been required by a notary. So it is important historic records are kept for future reference to ensure potential relief is not lost.



## Double tax treaty

UK residents are taxable in the UK on worldwide income and gains. Therefore, any sale of property in France must also be declared in the UK via the Self Assessment regime. The gains are calculated slightly differently, in so far as the impact of the currency exchange rates applicable at the point of purchase, improvements and sale, must also be taken into account.

The Capital Gains Tax payable in France will be recognised as a credit in the UK, at least in part, avoiding an element of double taxation. However, the treaty does not permit recognition of the social surcharges. Therefore, the solidarity tax paid will equate to an additional charge over and above the tax payable in the UK.

This document is intended as a general guide and although Chavereys have made every effort to ensure accuracy, they cannot accept liability for any errors of fact or opinion.

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