CAPITAL GAINS TAX: NEW RULES, ONCE AGAIN

A guide to French Capital Gains Tax by French lawyers

Guillaume Barlet and Laurent Bounet, September 2013

Capital Gains Tax (CGT) is usually payable on sale of a property by the vendors. This tax has seen too many changes over the recent years, which makes it difficult to organize a sustainable strategy for property owners wishing to sell. Once again, with the intention to unblock the property market in France, the French government, intends to take measures relating to CGT and, in doing so, incentivize the sale of property.

Despite the fact that no law has yet been passed[1], since 1st September 2013, private individuals owning a property in France for more than 22 years will benefit from a total exemption from CGT.

What are the main CGT changes?

The French Government has therefore implemented the following changes.

1. The CGT liability actually includes both CGT and social charges. If the full exemption from CGT takes place after 22 years, exemption of social charges only applies once property has been held for 30 years.

   It could have a considerable effect to potential sellers who are hoping to sell their French “Home Sweet Home" but are not prepared to wait 30 years or to pay a huge proportion on their gain.

2. Social charges commonly known as "prélèvements sociaux" benefit from a deduction of 1.65% per year for 21 years after the property has been held for a full 5 years.

   On the 22nd year, a 1.6% deduction is applied and a 9% deduction per year is then applied from the 23rd year until the 30 years are up.

3. The last incentive is a fiscal fillip creating a deduction of 25% on the net gain[2] for sales if the cession occurs between 1st September 2013 and 31st August 2014.

   This deduction is applied before deductions relating to social charges (so the 25% deduction does not apply on the latter).

4. As regards to land which can be developed, the exemptions outlined above will be no longer apply from 1st January 2014. Very little has been issued to clarify the measures which will soon be enforced. This may push some land owners to sell quickly and benefit from the current deductions that will disappear soon.

[1] The government intends to implement this measure in the next Finance Act for 2014 with potentially some changes, which begs the question of the longevity of such measures.

[2] The net gain being the gain after all relevant CGT deductions and taper reliefs have been applied.

<u>Should I sell now?</u>

The fact that these changes have yet to be implemented in the next Finance Act voted in the last days of December leaves little time before these measures could be modified again. This uncertainty makes it difficult to advise one way or another.

The following example compares a property sold at €250,000 before 1st September 2013 and the same situation after 1st September 2013. In this example, the property was bought for €100,000 and has been owned for 10 years.

Gain: €150,000

CGT before 1st September 2013: €43,031 (including €17,786 as social charges)

CGT between 1st September 2013 and 31st August 2014: €27,655 (including €13,599 as social charges)

About the Authors

Guillaume Barlet is a French lawyer specialising in French assets issues for Cubism Law solicitors in London. Guillaume can be contacted on 00 44 (0) 207 831 0101.

Laurent Bounet is a French lawyer in a Notaire practice in France.

Cubism Law
116-118 Chancery Lane
London, WC2A 1PP
guillaume.barlet@cubismlaw.com
Tel: +44 (0) 20 7831 0101