

Capital gains tax in France since January 2004

On January 1st, 2004 the tax rules governing property capital gains in France have changed.

What is a "gain"?

Capital gains are the profits earned on the sale of real estate: land, house or apartment. Put simply, a gain is the difference between the original purchase price and the final sale price. Certain costs can be deducted from this gain and lower the tax base: the costs and expenses related to the purchase and sale as well as certain expenses incurred during the period of ownership.

What are your obligations when you sell a piece of real estate in France?

- If you have been an owner for less than 15 years
 - you have to file a declaration of capital gains, even if you are a non resident and pay your income taxes elsewhere than in France
 - if you are a non resident you must appoint a tax representative if the sale price you receive for your property is greater than 150.000 €
- If you have been an owner for more than 15 years
 - you are exempt from tax and from filing a tax declaration: capital gains become fully tax-exempt after fifteen years of possession, instead of twenty-two years before January 1st, 2004.

Who can be your tax representative and what does he do for you?

- Either a company accredited by the French tax administration or by special authorisation, a person residing in France.
- Your tax representative will sign your tax declaration and guarantee its accuracy. He is responsible for answering a possible tax audit and defends your position. In case of tax adjustments his liability is unlimited.

What is the current tax rate?

- For non residents the capital gain tax comes to 33,33 % of the taxable capital gain.
- For French residents the rate is 26% (this rate includes social charges (CSG and CRDS) at 10%).
- The tax is reduced to 16% for residents of other European member states.

Are there any relieves or allowances?

- If you have been an owner for more than 15 years you are exempt from tax.
- Also if the sale price is lower than or exactly 150.000 € no tax is to be paid.
- For French residents, if the sold property is their first and principal private residence, the gains might not be subject to tax. Usually the French tax authorities demand for the tax exemption that you pay your income tax in France.
- In certain circumstances a gain made on the sale of a second residence might also be exempt, if certain conditions are satisfied, including that the

individual does not own a principal residence or has been a resident of France for two years or more at any time.

Both French residents and non-residents might have the benefit of the following discount applied to the gain. This discount is calculated by reference to the period of ownership:

- In the first five years of ownership no discount is applicable.
- In the following 10 years you can benefit from a discount of 10% a year.

Certain works completed to the property might also be deducted from the gain, providing that the work was completed by a company or other professional and the claimed figure is supported by the corresponding receipts or invoices.

For example works extending the property, renovation and improvement of the property are deductible, such as a new kitchen or bathroom, but can't be included decorative works such as painting, decorating and carpeting.

When do you have to pay the tax?

The tax is due immediately, at the time of sale, and no more when the income tax is due. The law requires the French *notaires* to prepare the declaration and to file the payment to the competent administration.

So remind to provide your notaire with all the necessary information along with original copies of supporting documents. If anything is missing, the tax authorities may automatically apply interest for late payment.