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LEAVING: WHAT DOESN'T CHANGE?

The divorce papers have been delivered and the settlement negotiations will soon begin. At this stage, who knows what direction these will take? Over the forthcoming months we will deliver a series of **"BREXIT BULLETINS",** specifically focussed on the Anglo-French impact of developments, as they arise, from the perspective of the French property buyer or owner and the French resident UK ex-pat.

The purpose of this first bulletin, though, is to quickly summarise two principal areas which will broadly be unaffected by the vote.

1). TAXATION.

This is perhaps the biggest area where matters will remain the same for most French property owners, irrespective of the status of the relationship that the UK adopts with the EU, (EEA, Swiss, WTO models). For the most part, the tax position will be unaffected, with Brexit implications only potentially existing at the margin for French residents.

This is broadly for two fundamental reasons:

a). The cross border taxation of income and capital (e.g. French rental income, sales proceeds, inheritance of French property by UK residents and all UK sourced income for French residents) is dealt with by existing bilateral Double Tax Treaties which are independent of and outside the scope of EU regulation. These will not automatically expire as a result of Brexit.

b). As regards income and capital which is taxable in France by reference to those treaties: since France remains an EU member state and is subject to EU rules regarding the free movement of capital, they cannot apply discriminatory tax rates on income or capital sourced from the UK. This principle regarding the inadmissibility of discriminatory tax was recently established in Conseil d'Etat (French supreme court) decisions of 20 Nov 2013, n° 361167 and 20 Oct 2014, n° 367234, the conclusions of which were adopted into the French tax code from 01/01/2015.

The risks, which in the context of taxation, relate only to tax residents of France and then only in the event that the UK trade arrangement with the EU is not the EEA or Swiss model. In these circumstances:

i). The French interpretational capacity of **UK based investment bonds**, which currently enjoy the same French tax advantaged treatment applied to all EEA based investments, may not do so in the future.

On the other hand, for a French resident, a UK based investment bond is generally an unsuitable investment in any event and anyone currently resident or looking to be resident and holding such an investment should seriously consider the cost/benefits of switching to a more suitable structure.

ii). The French would be able to levy **Prélèvements Sociaux on pensions taxable in France under the double tax treaty**, (UK state and private pensions). Currently, they cannot be charged by virtue of the CJEU (Court of Justice of the European Union) decision of 15 Feb 2000 no. C-169/98. However, the state of play today is that UK sourced pensions are already subject to Prélèvements Sociaux if the recipient is subject to French National Insurance legislation, (i.e. paying French NI by reference to a professional activity, including the regime Auto-Entrepreneur or receiving a French state pension in its own right).

For more details on the tax implications of a French property purchase, letting the French property, an intended move to or existing residence in France, contact **Alex Romaine** on 00 44 (0)1844 218956 or via email: alex@charleshamer.co.uk or **Emilie Mengin** via email: info@charleshamer.co.uk or visit the tax pages on our website: http://www.charleshamer.co.uk/taxation.aspx

2). EXCHANGE RATE RISK.

The UK never joined the currency union. The French property buyer or French resident UK expat with UK income or capital has therefore already experienced the ups and downs of currency fluctuation. Irrespective of the referendum vote, exchange rates will continue to fluctuate and the same currency management strategies remain as valid as ever. These include:

i). Financing the French property purchase with the aid of a mortgage in Euros.

By matching the currency denomination of the asset (the French property) and the debt (the mortgage), the extent of loss to personal investment, risked as a result of Euro depreciation or break up, is reduced. Meanwhile the prospect of a gain in the event of £ depreciation is still maintained, (albeit not as great). This strategy is particularly suited to cover long term, cyclical, fluctuations in the exchange rate (e.g. £ appreciation 1996-2001, depreciation 2001-2008, appreciation 2008-2016). For more details on how the Euro mortgage option reduces currency risk exposure contact our mortgage adviser **Javier de Diego** on 00 44 (0)1844 218957 or via email: enquiries@charleshamer.co.uk.

ii). Maintaining a large cash deposit float denominated in €.

This strategy, suited to managing short term fluctuations within the longer cyclical trend, allows for better timing of when to exchange £ into €; in the meantime allowing property running costs or general living costs (for a French resident) to be sustained from the € cash on deposit and your £ income to roll up until exchange rate turns in your favour. For details of suitable French based cash deposit accounts contact: **Emilie Mengin** via email: info@charleshamer.co.uk.

iii). Buying forward.

Involves locking in today's exchange rate to apply to a transaction at a known future date. This strategy dovetails well with the large € cash deposit tactic above, particularly when you have a known level of income or future available capital, since you can link the future conversion to the date when the € cash float runs out but without exposing yourself to exchange rate fluctuations in the interim. Forward buying is offered by most specialist currency brokers. For more details on how this works talk to our correspondent at **Smart Currency : Harry Walford** on 00 44 (0)020 7898 054, Harry.Walford@smartcurrencyexchange.com or visit the relevant page on their website: http://www.smartcurrencyexchange.com/money_transfer.aspx

iv). Reallocating Investment portfolios to € denominated or € hedged funds.

For a UK resident, because future expenditure will be in £, it makes sense for investment portfolios to be denominated in £ or, when investing abroad, in funds which are hedged back into £, thus stripping out the underlying currency risk. For the French resident – when looking to reduce currency risk exposure - it therefore makes equal sense to dominate the investment portfolio in € denominated or € hedged assets. Usually then, a UK resident looking to move to France, should therefore seriously consider redirecting their dominant asset allocation from £ denominated or hedged assets in favour of € in order to maintain their suitability for the new circumstances. For details of our investment planning services for French residents please contact our advising partner: **Jon Pawsey** jon@charleshamer.co.uk

3. CONCLUSION TO DATE:

For the UK resident buyer of French property who has no intention of moving to France, then Brexit has no relevant impact on your freedom to purchase and enjoy the property or on the taxation of any income generated from it or on its ultimate disposal. Whilst it would be reasonable to expect increased currency volatility over the foreseeable future until the dust settles and a new economic equilibrium is established, the same tools for managing currency as existed before the vote still exist afterwards: it is simply more advisable than ever to use the tools available.

For the buyer of French property intending to move to France or UK ex-pat already resident in France: to a large extent their financial situation is also unchanged. There are however two main areas where they are potentially impacted:

a). The future right to reside in France
b). Access to French State healthcare.

The final outcome in these areas will not be settled until negotiations on the terms of leaving the EU are concluded but we do know the extent of the range of possibilities that may apply, according to whether the UK / EU relationship follows the EEA status at one end of the spectrum or WTO status at the other end.

Our next bulletin will look at these two extremes in more detail.

Meanwhile, if you would like to know more about how Charles Hamer can help your Anglo-French tax, healthcare, or investment planning in the post Brexit environment please contact Emilie Mengin via info@charleshamer.co.uk.