Charles Hamer Financial Services
INDEPENDENT FINANCIAL ADVISERS

87 Park Street, Thame, Oxfordshire, OX9 3HX
Tel: 01844 218956/7 Fax: 01844 261886
Email: jon@charleshamer.co.uk

Partners: Jonathan Pawsey Dip PFS. Karen Ellis

THE FRENCH SOCIAL SECURITY FINANCE ACT 2013: A SUMMARY OF THE MAIN CHANGES TO NATIONAL INSURANCE LEGISLATION IMPACTING ON THE ACTIVE FRENCH RESIDENT.

In similar fashion to the 2 December 2012 Finance Bills, the Social Security Financing Bill 2013 was subject to much dissent during its passing through both parliamentary chambers, so much so that it too was taken all the way to the Constitutional Counsel for judgement over a number of Articles.

The Court reached its decision on 13th December and the Bill passed into law on 18th December.

The Act includes a number of reforms to National Insurance legislation that will have a significant impact on many of our clients who are French tax resident and pursing a business activity, whether this be as an employee, controlling director, self employed individual or an auto-entrepreneur. These changes may have consequences sufficient to demand a rethink of the business structure as well as the appropriate type of remuneration going forward.

The changes are summarised in this bulletin. As with other such bulletins, the information provided is insufficient on its own to be relied upon as a stand alone resource upon which to make a DIY judgement as to the business format to take forward.

To find out more on how the following changes along with the other tax reforms introduced in the two Finance Acts will impact on your bottom line as well as your retirement, your other social security benefits, please contact:

Our senior advising partner: **Jon Pawsey** at jon@charleshamer.co.uk

The summary of the main social security changes now follows:

1. Change in Social Security Contributory Rates for Auto-Entrepreneurs.

One of the provisions of Article 11 of the Act is to increase the social security contribution for Auto-entrepreneurs for 2013 contributions onwards.

The contributory rates vary according to the nature of the business activity pursued and the following table summarises the position pre and post the Act, to include the income tax content in each case:

Table 1: Social Security Contributions & Income Tax Rates for Auto-Entrepreneurs pre and post 01/01/2013.

Activity	**Contribution 2012 (% of Turnover)**		**Contribution From 2013 (% of Turnover)**	
	Social security Contribution (also relevant for "Micro-Social"	**Total Contribution including Income Tax**	**Social security Contribution**	**Total Contribution including Income Tax**
BIC activities selling goods, food or providing accommodation	12%	13%	14%	15%
Other BIC activities	21.3%	23%	24.6%	26.3%
BNC activities **not** subject to affiliation to CIPAV	21.3%	23.5%	24.6%	26.8%
BNC activities subject to affiliation to CIPAV	18.3%	20.5%	21.3%	23.5%

2. Change in Minimum Cotisation Maladie-Maternite for the Self Employed When Profits Are Assessed Under a “Reel” Regime.

In the case of an Auto-Entrepreneur or business assessed to tax under any of the “Micro” regimes, National Insurance Contributions are a set % of turnover (see table 1 above for Auto-Entrepreneurs and the Micro-Social regime), otherwise when running the business on a self employed basis – as a “travailleur independent” or “entreprise independente” - contributions are a function of accounting profits.

For certain elements of French National Insurance, a minimum contribution is payable even if profits are non existent or below a minimal level.

In the case of the Maladie-Maternité element, the minimum contribution for 2013 will be reduced relative to previous years. Although the outcome is subject to quite a complex calculation, the following summarises the position regarding minimum contributions for 2013:

Table 2: New Minimum Maladie-Maternité Contributions for 2013, (Self employed régime réel)

	Year of Business Trading		
	1 (first year of trading)	2	3+
Basic Minimum Contribution in 2013	€457,35	€649,91	€962,83
Minimum Contribution when making no profit	**€144,43**	**€336,99**	**€649,91**

When profits are less than €14.812,50 the basic minimum above is reduced by an amount equal to 2.1125% of the difference between €14.812,50 and actual profits.

So, for example, a business in its 3rd year in 2013 with reference profits of €10.000 would pay a contribution of €649,91 less relief of 2.1125% x (14.812,50-10.000) = €649,91 – €101,67 = €548,24.

To pay for this reduction in contributions at the low end, the contributory limit for Maladie Maternité of 5 times the Plafond de la Sécurité Sociale (PSS) which was applied up to and including 2012 is withdrawn. However, since the limit in 2012 was €181.860, the withdrawal of this ceiling will not have any practical consequence for most taxpayers.

Overall, these changes at the low end of the scale represent quite an improvement against the 2012 position for the self employed, particularly for those in the first two years of trading and/or making no or only modest profits.

When coupled with the increase to auto-entrepreneur contributions and bearing in mind that self employed NIC contributions are tax deductible whereas those of an auto-entrepreneur or micro-social regime are not, the changes described can make standard self employment where profits are assessed under the simplified accounting rules, (the regime réel simplifié or super-simplifié), a better outcome for the bottom line.

3. National Insurance Contributions On Dividends and Other Distributions

Traditionally, one way of reducing the NIC burden – in France and elsewhere – has been to incorporate the business and remunerate business owners by a combination of minimal salary and high dividends, payment of interest on shareholder loan capital, or rent: NIC being limited to the salary.

In recent years this principle changed in France, albeit in circumstances limited to controlling directors of companies pursuing an activity falling with certain Professions Libérales classification, when the scope of NIC could be extended to dividends.

The 2013 Social security Financing Act extends this rule to all controlling directors of companies subject to Corporation Tax when:

- The activity of that controlling director falls within the scope of French national insurance legislation as determined by EU regulations, and
- Dividends paid to the controlling director and/or spouse, partner or dependent children exceed 10% of the aggregate value of the amount paid by them for company issued share capital plus any outstanding shareholder loan capital in their name.

In which case the dividend excess is chargeable to French self employed NIC.