

French wealth tax

How onerous is it?

More and more people living in the United Kingdom express the desire to move to France for a host of reasons. Many see France as a land of good food and wine, unspoilt countryside and an enjoyable climate with a perhaps less fractured society than our own. Often though the first concern of those moving to France, and there are over 20,000 each year, is not, "Can I speak the language?", nor "Will I be able to earn a living?" but "What can we do to avoid wealth tax?"

Wealth tax (or *Impôt de Solidarité sur la Fortune*) is not a tax we yet have in the United Kingdom and for this reason it concerns many people moving to France or contemplating such a move, as well of course, as residents of France. And yet in reality, in many cases there can be far greater problems, such as succession duty and forced heirship, or gift tax, which really should be considered prior to a move. These topics were dealt with in some detail by our earlier technical update 'Buying a House in France'.

Nevertheless, wealth tax, being alien in concept to the British, and indeed to some French residents, needs to be understood.

Firstly, it applies not to each individual but to the wealth of the 'household' or *foyer*. By this we mean husband and wife living under the same roof with minor children for whom they are responsible, so that the assets of all members of the household are aggregated, and one single wealth tax return is submitted. This is another difference from the UK where we are used to independent taxation of husband and wife, and in many cases of minor children.

Wealth tax is also a tax which is 'self-assessed'. You will not normally initially be sent a form to complete, but must decide when you are due to make a return. This point is often missed by many living in France or having assets in France. Note that the French taxman has up to six years in which to ask for returns, and where tax should have been paid, interest and penalties can arise.

For those resident in France, wealth tax applies to one's worldwide net assets, and is calculated annually upon one's position at 1st January. The return must be made by 15th June and tax is due by that date. For non-French residents, wealth tax applies only to their French assets and hence for those who have bought a second home in France, it will be necessary to monitor the value of the property each year to ensure that you have not fallen within the wealth tax regime. It is proposed under the Anglo-France double tax treaty that those moving from the UK to France will be exempt from wealth tax on their non-French property for the first five years after moving to France. It is a common view that this has actually been promulgated into French law, but at the time of writing it has not! Non-residents must make a declaration to the Centre des Impôts des non-Résidents, 10, rue du Centre, 93465 Noisy le Grand, Cedex by 16 July and the tax is due by that date.

So how bad is wealth tax? Set out below are the bands and rates applying as at 1st January 2008:-

Taxable amount €	Rate %	Cumulative tax to upper limit €
0 – 770,000	-	-
770,000 – 1,240,000	0.55	2,585
1,240,000 – 2,450,000	0.75	11,660
2,450,000 – 3,850,000	1.00	25,660
3,850,000 – 7,360,000	1.30	71,290
7,360,000 – 16,020,000	1.65	214,180
Over 16,020,000	1.80	

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Two examples will serve to illustrate the impact of wealth tax.

1. Imagine that you are resident in the United Kingdom but some time ago you acquired a French property, now worth €800,000 with no mortgage. Your wealth tax will amount to €165 (or £124 at current exchange rates).

There are two points to note here. Firstly, wealth tax bites at relatively low levels of wealth. €770,000 is just over £577,000. In many parts of the UK this would not amount to 'wealth', it would barely purchase a property. Secondly, the burden, at £124 is relatively light. Certainly not worth complicated tax planning to save what in effect is less than your council tax.

2. Imagine though that you intend to move to France and will own a substantial property there, worth, after allowable deductions, €3,000,000. Imagine also that you have a share portfolio of €2,000,000 and a property in the UK worth €3,000,000 and no loans or mortgages. In this case, your assets total €8,000,000 on which wealth tax will amount to €81,850, or over £61,000 each year.

This becomes much more significant and tax planning is well worthwhile before you move to France, for example via the use of a UK discretionary trust for UK situated assets prior to emigration. Recent UK trust law changes have made the use of trusts less attractive than formerly, but planning is still advisable and possible.

Assets include for example, all property, rights, shares, including assets held via a *Société Civile Immobilière*, businesses (but see later), debts, chattels and items such as cars and yachts.

It is incumbent upon the taxpayer make his or her own valuation. This will not normally be checked, but on subsequent disposal, cross reference may be made and if it is thought the valuations were on the low side, adjustments to wealth tax will be made.

Of course, there are various exemptions and reliefs available. In each case there are, as one would expect, complex rules to determine exemption.

Principal exemptions include:-

- Principal private residence – 30% of value
- Business assets, subject to strict conditions
- Share capital in certain businesses subject to conditions
- *Objets d'art* and some collections
- Antiquities over 100 years old (e.g. jewellery, furniture etc)

Debts are deductible, but in the case of a non-resident, only debts or mortgages attaching to the French property are counted. Certain debts are not allowable deductions including debts to your heirs. On the other hand, income tax due, the wealth tax itself and *taxe d'habitation* and *taxe foncières* (local property taxes) are allowable.

More generally there can be limits (or a *plafonnement*) on the amount of wealth tax payable, for those on low incomes.

Bouclier fiscal (tax shield)

Originally introduced in the 2006 Finance Act (*Loi de Finances*) is a new concept of a *bouclier fiscal*. This is available to French residents who can now ask for a tax rebate if the total French tax paid, including income tax, wealth tax, 11% social surcharge and local taxes on the principal private residence, exceeds 50% of their worldwide income. Note that capital gains are included as part of income and treated as income tax for the purpose of the tax shield.

This is a measure which will help, amongst others, those with wealth but little income.

Dixon Wilson is happy to advise on all of these issues.

This update is for information only and does not constitute professional advice. For advice on your particular circumstances or for further information, advice or assistance in relation to any matters raised above, please contact the author or your usual Dixon Wilson partner.

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