

Charles Hamer Financial Services

INDEPENDENT FINANCIAL ADVISERS

87 Park Street, Thame, Oxfordshire, OX9 3HX

Tel: 01844 218957 Fax: 01844 261886

Email: Jon@charleshamer.co.uk Chris@charleshamer.co.uk

www.charleshamer.co.uk

FURTHER NEWS ON THE FRENCH FINANCE BILL 4TH JULY 2012 – PROJET DE LOI DE FINANCES RECTIFICATIVE 2012

There is nothing official yet but:

Amongst the many amendments proposed and to be debated in the Assemblée Nationale (the equivalent to the house of commons) during the 16th to 18th July, there has been a proposed amendment submitted from through the Commission des Finances to withdraw the 15.5% tax charge introduced by draft article 25 for the very same reason I suggested last week, namely:

That the proposal to charge Prélèvements Sociaux (the tax proposed) on income and gains made by non residents takes no account of the refusal on the part of the CJCE (European Court of Justice) to extend CSG and CRDS (these being 2 components of Prélèvements Sociaux) to French sourced income when the non resident individual is subject to the National Insurance legislation of another member State. EU regulations 883/2004 and 987/2009 co-ordinate the social security systems of the member states such that individuals falling within the scope of these regulations are subject to the legislation of only one member state at a time. It therefore follows that a non resident who is – under these regulations - a party to the social security system of another member state cannot be affiliated to the French social security system.

Despite this, partly because the CJCE decision limited itself to an assessment of the nature of CSG in the context of its application to salary and pensions, there remained uncertainty as to the nature of CSG in the context of unearned income, particularly since Prélèvements Sociaux follow a dual legal regime. In effect, CSG and CRDS, when applying to earned income and pensions, are subject to social security rules of assessment and collection, whereas when applying to unearned income the rules of assessment and collection are dealt with by (income) tax statute.

In a judgment on 8th March 2005 the Cour de Cassation, (equivalent to the Supreme Court), concluded that CSG and CRDS are social security contributions.

The amendment thus claims that unearned income (and gains) received by non residents is excluded from the scope of social security contributions even if such income (and gains) are chargeable to French income tax. Consequently the proposal is invalid and the article should be withdrawn.

So, fingers crossed for next week.....

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