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## **French Retroactive Finance Bill 4th July 2012: Article 25 Proposal to Tax Holiday Homes – Update at 27th July**

“The Sénat amendments proposing the withdrawal of article 25 (the Prélèvement Sociaux charge) have all been rejected. So it’s now off for the second reading at the Assemblée Nationale with the Bill.

It does increasingly appear, however, that the tax increase of 15.5% will only apply to unfurnished rental income and all disposals chargeable to capital gains tax.

So taxpayers letting out their properties furnished (e.g. for holiday lettings) should be unaffected as regards French tax on their income, although all owners will face the CGT impact, unless exempt. That said, because of the availability of taper relief in France, (currently absent in the UK) in all likelihood most owners – if chargeable to UK CGT on the disposal – will find there is no bottom line impact due to the ability to offset any French tax incurred on the disposal against UK CGT.

The vast majority of the debate centred around whether or not Prélèvements Sociaux is a social security charge or a tax. The Government referred to the decision of the Constitutional Court which was that it is a tax varying in nature according to the category of income to which it applies. The opposition referred to both the European Court and Cour de Cassation, both of which determined that it is a social security charge, albeit the Govt countered that the decisions were limited in scope to the context of earned income.

So it looks more likely than not that the final decision in the end will rest with the European court although, when relevant, the tax will be charged in the interim no doubt”

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