

Charles Hamer Financial Services

INDEPENDENT FINANCIAL ADVISERS

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SECOND LOI DE FINANCES RECTIFICATIVE 2012 BECOMES LAW

“Following on from our August 13 update, we are now able to confirm that the text for the new Act was published in the Journal Officiel on the 17th August and the new tax changes have therefore passed into law without any amendment to the proposal to increase capital gains tax and income tax on rental profits on non residents to 34.5% and 35.5% respectively

The tax changes have immediate effect on all taxable capital gains realised from this date whilst for income, the tax will apply to all profits generated on income received from 1st January 2012.

As regards rental income, it does appear, however, that the tax increase of 15.5% will, currently at least, 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 their income, although all owners will face the CGT impact, unless exempt.

The vast majority of the debate surrounding the validity of the tax centred around whether or not Prélèvements Sociaux is a social security charge or a tax. The Government referred to the decision of the Constitutional Counsel, (“Conseil Constitutionnel”) which was that it is a general 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.

This same conclusion was again reached by the Conseil Constitutionnel in its decision on 9th August, although they did qualify that the scope of their remit was to tackle the question of whether or not the provisions of the Act conformed with the French constitution as against any issue of whether or not these were valid within the context of EC legislation, which they said was a matter for the tax and judicial authorities. 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.

Bearing in mind that tax hikes therefore are likely to raise the French tax payable above any corresponding UK tax due, there is now a strong incentive to adopting strategies that

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reduce their impact. For details on how we can help in these matters, please do contact us as follows:

Reducing the tax burden on rental income: Contact our head of Lettings dept; Alex Romaine: alex@charleshamer.co.uk direct line : 01844 218956

Reducing the French Capital Gains tax charge: Contact our advising partner: Jon Pawsey: jon@charleshamer.co.uk or by phone on 01844 218957