

France Exchange of Tax Information Treaties with, Jersey, Guernsey, Isle of Man, Cayman, Bahamas, Turks & Cacaos, Gibraltar, and BVI now in force.



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Please note that tax law is a complex subject and you should not rely on this article without professional advice on the facts of your case.

France signed tax exchange of information agreements with a number of jurisdictions during 2009 which had to be ratified by the respective countries before they could come into force. There has been a delay in bringing them into force whilst the French government considered them and sought various clarifications. These matters have now been resolved and the draft French laws to bring them into effect have been passed by both houses of the French parliament and are now in force and will have effect for the purposes of France's 3% tax as of 1 January 2011 which is the next trigger date.

Why does this matter?

Although these agreements do not amount to full double tax treaties, their effect goes well beyond exchange of tax information and for the first time will open up the possibility for investors in these offshore jurisdictions to invest in France without (inter alia) the punitive 3% tax per annum on the gross value of French property owned by them.

What effect will this have on the French property market?

It will be very positive for high value and prestige French properties. Until now trusts and companies based in the above tax havens had to pay 3% per annum on the gross market value of the properties which meant few such entities invested in France. That has now changed. Provided disclosure is made of the shareholders in such entities no 3% tax will be levied.

Investors are likely to seek asset classes not open to them in the UK such as ski chalets, vineyards and chateaux. The areas which are usually most attractive to foreign investors are the Cote d'Azur, Alps and Paris.

Will all trust companies in these tax havens allow their clients to purchase French property?

This will be a decision for each trust company based on how comfortable it can get with owning and managing French property. If a trust company will not operate in France investors can move their funds to one which will. There will be no tax barrier to an offshore trust purchasing in France as before.

Have all the tax havens ratified the treaties?

Most of the other jurisdictions have carried out their internal ratification procedures although the implementing laws have yet to be passed in the British Virgin Isles and in Guernsey. It is

still unclear whether these procedures will be completed in time for those agreements to come into force on 1st January 2011.

Jersey treaty

The Jersey treaty covers direct and indirect taxes including VAT. It also covers French Wealth Tax, Inheritance Tax, Stamp Duty and withholding tax. The exchange of information covers requests for information which may lead to both a civil fine and/or a criminal conviction. There is a requirement that the tax authorities must positively act to obtain documents and cannot say they are not holding such documents. This appears to allow the French authorities to require the Jersey authorities to obtain production of documentation from say Jersey trustees. There is reference to internal confidentiality requirements though France sees these as secondary to the general requirement in the treaty to disclose information.

With the agreement of the Jersey tax authorities and “the persons concerned” French tax investigators are able to visit Jersey to conduct interviews. There is also an article covering pensions.

The other treaties

The other commentaries are similar. There are a few interesting points of comparison on the treaties.

- Only the Jersey treaty has a specific clause on pensions which was inserted at Jersey’s request.
- The BVI and Cayman treaties have a foot note stating that a request for information covers all persons including people who are not BVI/Cayman resident or BVI/Cayman nationals.
- In the BVI agreement France can ask for witness statements and certified copies of documents.

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