



### Avoiding French Stamp Duty

David Anderson solicitor and tax adviser at Sykes **Anderson** LLP Solicitors and Chartered Tax Advisers.

*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.*

### **Stamp duty saving schemes in the UK**

Stamp duty savings schemes have always been discretely marketed in the UK by solicitors and accountants and are sometimes used in higher valued transactions in which the potential stamp duty saving outweighs the potential costs and possible challenge from the UK Revenue. It is usually impossible to get clear answers as to whether schemes will work, and certainly no binding clearances from the UK Revenue. In most cases the schemes are marketed on the basis of a lengthy opinion from leading tax counsel which the solicitors or accountants touting the scheme tell their client is highly confidential and worth its weight in gold. Clients who sign up for such schemes are often disappointed by counsel's various caveats, which usually appear towards the end of the opinion, and the opaque nature of his analysis, which they find challenging to fully understand. The risks of interest and penalties if it all goes wrong are invariably down to the client.

### **Stamp duty saving in France**

This does not have to happen in France. It has long been a lucrative but little known fact that there are possibilities for reclaiming VAT paid on the purchase of residential real estate in France which is then outside the scope of stamp duty. Most UK buyers do not explore this possibility because it appears complex though with specialist advice it can be achieved relatively quickly.

### **Coming within French VAT**

In France the purchase price is generally subject to either VAT (19.6%) or the equivalent of Stamp Duty (5.09%). Most UK buyers do not like the idea of a property being subject to VAT. It can however be possible to reclaim the VAT on the purchase price in the event that the buyer or another business carries out a VATable business thereafter relating to the property. Equally, with building plots, it can be possible to reclaim the VAT and thereby opt out of the Stamp Duty regime. Buyers can also reclaim the VAT on all building costs.

### **No 5.09% French stamp duty**

Where the buyer is within VAT, simple steps can be taken to exonerate the buyer from the 5.09% stamp duty charge. These are dangerous waters in which to get it wrong and specialist advice can save buyers a lot of tax. Written clearances from the French Revenue confirming no stamp duty is payable and that VAT can be reclaimed can be obtained quickly in appropriate circumstances from the French Revenue. The recent changes in French VAT legislation made under pressure from the EU are helpful for the well informed buyer.

### **Disappointed buyers who have already completed**

Buyers who have already completed and paid French VAT on the price and who may now be very disappointed they were not told by their estate agent or other adviser how they could reclaim the VAT on the price may still be in time to reclaim the same. They can probably also reclaim VAT on their building costs. Sadly buyers who have paid stamp duty (when they could have taken simple steps to come within VAT and avoid the stamp duty and reclaim the VAT) are unlikely after completion to be so fortunate.

August 2010

David Anderson  
Solicitor and Chartered Tax Adviser  
Sykes **Anderson** LLP  
9 Devonshire Square  
London EC2M 4YF  
Telephone 020 3178 3770  
david.anderson@sykesanderson.com  
**[www.sykesanderson.com](http://www.sykesanderson.com)**