

**Inheritance Tax - Swiss residents owning land in France**



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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.*

This article considers the inheritance tax position on French assets of a person taking up Swiss residence. It is relevant to UK individuals with French assets considering a move say from London to Switzerland.

French inheritance tax applies to all land in France and French moveable assets owned by the deceased regardless of the deceased's residence or domicile. So for instance a person who dies resident and domiciled in the UK with a holiday home in France will be liable to French inheritance tax as well as UK Inheritance tax on the property. The estate ends up paying tax at the higher rate with a tax credit for the lower tax paid in the other country.

**French SCI**

It does not matter if the French property is owned by a company such as a French SCI. This is considered as a French moveable asset and as such taxable in France. There is accordingly normally no tax advantage in using an SCI or indeed any other French company.

**Non French company**

In the case of a non French company owning a French property the shares in such a company are prima facie not taxable as they are not French (moveable) assets. The French tax code however provides that if a French property is owned by a non French company and the assets of the company are more than 50% French property then French Inheritance tax is payable pro rata.

**Beneficiary French resident**

In any event if the recipient (beneficiary) is French resident on the date of death and has been for the previous 6 years all French and non French assets are taxable. If the beneficiary is not French resident as above only French assets are taxable as above.

## **Swiss resident with French assets**

The position is however very different for Swiss residents. The position on death is covered by an old treaty between France and Switzerland signed in 1953. It is separate from the treaty covering matters such as income tax and corporation tax which has been regularly updated. It is very helpful.

The treaty covers French inheritance tax and the inheritance tax levied by Swiss cantons. The treaty provides that land is to be taxed in the country in which it is situated. Accordingly a Swiss resident individual who directly owns a French property is taxed in France. Generally direct ownership of French land by Swiss residents is inadvisable.

## **No French Inheritance Tax payable**

Any moveable asset is only taxed where the deceased was resident at the date of death. The Swiss France treaty is interpreted by the French tax authorities as preventing France taxing companies which own more than 50% French land. This means that on death the transfer of the shares in a French SCI which only owns a French property is not taxed in France – only in Switzerland. It follows that ownership via a non French company is in the same position. In some cases a non French SCI may be helpful for high net worth individuals.

The effect of the treaty is that a French resident beneficiary is also not taxed. The only tax therefore payable is in Switzerland and will depend upon the particular canton in which the deceased was resident and whether it has an inheritance tax and how it is applied. In some cases the rate will depend on whether the gift is to a direct descendant or to more remote relatives or outside the family. Individuals relocating to Switzerland say from the UK with substantial French assets may care to give the choice of canton of residence some thought.

## **Forfeit taxation in Switzerland**

The treaty does not exclude from its protection Swiss residents taxed on a forfeit basis, unlike the main treaty covering income tax. This is very helpful for high net worth people who are not working in Switzerland.

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