

A place in the sun can be yours for less than you'd think

Buying *en viager* can help expats to increase their pension pot while also helping hard-up senior citizens obtain extra value out of their homes

One intriguing peculiarity of the property market is the strong trade in "*en viager*" purchases, where you buy a house but the seller continues to live there until they die, receiving a lump sum and a monthly payment, called a *rent*, while they do so.

Often done as a way of boosting someone's pension pot, the *viager* sale means basically gambling on the life expectancy of the former *créditentier* or owner: how much you pay depends on how long they live.

The advantage for a buyer or *débirentier* is that the upfront purchase price will be far lower than if the property were bought outright and, often, the monthly repayments are also reasonably low.

The seller receives an up-front cash sum called a *bouquet*, plus a guaranteed supplementary monthly income and can continue to live in what has been his home for the rest of his life.

One option starting to appear, especially in high-value places like the Côte d'Azur, is known as a holiday *viager*. Here the seller agrees to move out of the house for a set period every year, perhaps for a month in the high summer season, and gets a higher *rent*.

If elderly owners already rent out their properties during the summer when rents are very high, this form of *viager* can have advantages, especially for tax: capital gains tax is likely to be zero and income tax on the *rent* is reduced, as it varies with the seller's age. In addition, they get a guaranteed summer rental for life.

For the buyer, the advantage is it operates like

Buyers of holiday *viager* contracts can obtain a Côte d'Azur villa for less than the market rate if they are lucky



a "leaseback" for older properties. Those concerned about confidentiality have a "cloak of invisibility", because to the outside world nothing appears to have changed. There are also no upkeep costs or security issues as there are with a holiday home.

Typically, *viagers* also offer advantages with regard to French wealth tax, as the property is initially taxed on the value of the purchase as calculated for tax purposes (i.e. the lump sum and the value of the *rent* based on the seller's age), less the capitalised value of the rental payments, thereby reducing the total for wealth tax.

If you pay the monthly *rent* out of funds in the UK, then exchange rate fluctuations will have a monthly impact. However, if you feel sterling is

going to appreciate against the euro, this may be an added bonus, as the cost will reduce.

Viager properties can be sold through any estate agent, but most are sold through specialist agencies. There are several kinds, although the best-known is the *viager occupé*, where the seller remains in the property for his lifetime.

In addition, there is *viager libre*, where the seller vacates the property on completion of the sale. The monthly rental varies according to the deal agreed, but you will usually pay more for a vacant property. This is often used for properties that have been rented out.

A similar set-up is known as *vente à terme*, where the only difference is that the *rent* is paid for a set time. If the seller dies before the term is up, then the buyer continues to pay the *rent* to

B&B owners left confused by law

CHANGES in the social security legislation have left *chambres d'hôtes* owners with just as many questions as before the government moved to tighten the business registration procedures.

While the new *Loi de Financement de la Sécurité Sociale* says owners must register with the Régime Social des Indépendants if they exceed the *non-salariés non-agricoles* minimum earnings threshold of €4,670 in 2010 (€4,740 for 2011) – and pay social security contributions – it has ignored the various business tax regimes that can be used.

The change does not affect the owners of gîtes or other long-term rental properties, but *chambres d'hôtes* owners face paying vastly different sums in social charges depending on

entrepreneurs face paying 12 per cent of their turnover in charges and, as they have no allowance for expenses, they would be starting from the first centime they earned above the €4,670 limit.

However, owners who set up as a micro-entreprise on the tax scheme *Régime de Base* get a fixed cost allowance before their liability to tax is calculated.

This 71 per cent allowance for commercial sales is set against turnover, so only the remaining 29 per cent is liable to full social charges and any tax.

In effect, this means owners would need to bring in more than €16,103 to be affected, although below this there is still an obligation to pay the CSG and CRDS social charges on

them to the micro-entreprise regime in its notes on setting up in business.

It notes that this regime sits well with small-scale businesses with revenues of under €76,300 before tax. Social charges will take around 45 per cent after the deduction of the 71 per cent allowance.

The new law gives *chambres d'hôtes* owners access to the health system, as they will be paying social charges for *assurance maladie* and *assurance vieillesse* as a major benefit of registering, but the choice of which business regime to choose is crucial in deciding how much you will pay.

Even if the business brings in less income than the registration threshold, it could be a



Photo: Pouché - Fotolia

the estate. There can be tax advantages to this. The *viager occupé* option has two variants: in one, the seller retains the "*usufruit*", which is similar to a life interest (the seller can remain in the property for their lifetime or they can move out and rent out the property receiving the *rent*). In the second case, the seller retains a

Guidelines are used to set payment levels. As an example: if a 70-year-old woman aims to sell a €400,000 property as *viager occupé*, the price would be cut by 50 per cent as she wishes to live there. Then she can decide how she wants the €200,000 paid; perhaps a lump sum of €20,000 and a monthly rent of €1,050.



Jeanne Calment sold her flat in Arles en viager when she was 90. She died aged 122, the world's oldest person

An important part of the *viager* purchase is that there is an element of risk for the buyer as to the final cost of the purchase. This was seen in the story of Jeanne Calment, who died at 122, the world's oldest person.

At the age of 90, she sold her Arles apartment to 47-year-old *notaire* André-François Raffray on a *viager* contract. He was to pay her 2,500 francs a month. Mr Raffray died at the age of 77, but his widow had to continue paying Mme Calment. The deal cost Mr Raffray and his heirs nearly three times the value of the flat.

Failing to make the monthly payments will void the purchase and the seller can recover the property and keep any payments already made.

Taxes are paid as for a normal house sale: *taxe foncière* is paid by the owner as at January 1 and *taxe d'habitation* by whoever lives in the building on that date.

It is important to get specialist legal advice on buying *en viager*, as there are fine legal distinctions involved and buyers should look carefully at the disadvantages, especially if they are not based in France, as it may be difficult to find out if the seller has died.

This feature has been compiled with the help of David Anderson and Nicole Gallop Mildon at solicitors and tax advisers Sykes Anderson.

"*droit d'usage et d'habitation*", a right to inhabit and use the property for his lifetime.

This second option is preferable for a buyer, as it avoids the risk of a third party being in occupation of the property on the seller's death.

Several factors are taken into account in calculating the *bouquet* and the *rent*, but not the seller's health. Article 1976 of the French Civil Code gives the parties freedom to set these figures, but, in practice, conditions must be met.

For example, if a buyer knows the seller is likely to die shortly, the sale may be cancelled. A sale will also be void if a seller dies within 20 days of the sale from a pre-existing illness.

French Mortgage Best Buys

Type of Mortgage	Maximum LTV	Starting Rates from
Full Term Fix	100%	3.60%
Cap & Collar	80%	3.00%
Tracker	80%	2.40%
Tracker	80%	2.55%
5 year Fix	80%	4.30%

Based on a loan amount of €200,000 and a 20-year term, fixed interest rate