

# French ministry to review taxing of UK pension lump sums

New law may not apply, says senior Paris official

by OLIVER ROWLAND

THE French Budget Ministry is reviewing whether UK pension lump sums are now taxable in France following a change to French law.

The move follows the introduction of new wording in the Code Général des Impôts (CGI), France's main tax law, which parliament said was applicable to income as of 2011. This states that "retirement benefits provided in the form of capital" will now form part of taxable income. Aurelien Perrier, a senior official at the Direction Générale des Finances Publiques, which manages French taxation, said the new law concerns retirement benefit provided as capital, whether its source is France or abroad.

However it is not yet clear if it applies to British lump sums and this is being studied. "Experts in the interpretation of the Franco-British double tax treaty are among those preparing a response," he said. "There are questions over France's right to tax the sums, which must be looked at in the light of the treaty."

Further clarification on this point is likely to take at least a month, the official said. Wide-ranging guidelines on practical effects of the new law are due in several months' time, which should shed further light on this.

If it is decided that the sums are not taxable in France, it may save many Britons thousands of euros, meaning the difference between some of them leaving or staying in France. In the UK, it is possible to take up to 25 per cent from your pension fund tax-free.

The new law has been interpreted by many finance professionals as likely to apply to lump sums taken from British pensions, which have previously been left untouched by French tax.

London-based tax lawyer David Anderson said that, while the double taxation treaty allows France to tax income such as pension annuities, the position is not clear for lump sums: "The question now is whether the tax treaty, which always overrides domestic law, overrides it in this case."

He said he was "reasonably optimistic" that the authorities would take a favourable inter-

pretation of the treaty. "The actual loss to the French revenue by not taxing the British sums would be quite small; they would be better off having wealthy British people staying and paying their taxes and spending money in France, than forcing them to leave. The least well-off may stay, but those with a million or more could leave, precisely the people the French government wants to stay."

To take an example:

■ If a couple has an income from other sources of €50,000, at the latest tax rates they would pay income tax of €4,321.76

■ If they have a pension fund worth €1 million, from which they take a 25 per cent lump sum, under the usual rules they would still pay total tax of €4,321.76

■ However if the €250,000 lump sum is taxed, the overall tax on that would be €60,687 which, when added to the original €4,321.76, makes a tax bill of €65,008.76.

Former French senior tax inspector Robert Matthieu said the change in law was because a 20 per cent capital sum can now be taken from certain types of French pension. With one minor exception, this was not possible for French pensions before.

"Following last year's pension reforms, taking part of a pension as capital was authorised, which is only fair, as people taking retirement often have a project they want to pay for, but there was no law text saying it would

be taxed. Such a text was then created in the *Loi des Finances Rectificative pour 2010* at the end of last year." In other words, France took the first opportunity to bring such payments into the net. "In France, we tax everything," he said.

International tax consultant Michael Annett said: "The double tax treaty between France and the UK, of which the latest version came into force only January this year, remains unchanged with regards to pensions.

"As there is no change as to what is taxable, there can be no change with regards to the continuing non-taxing of UK pension tax-free lump sums by the French."

→ Robert Matthieu interview, pages 17-18

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Aurelien Perrier  
Budget Ministry official



## Marianne Faithfull honoured

THE singer Marianne Faithfull has been awarded one of France's highest cultural honours.

The 64-year-old was made Commander of Arts and Letters by Frédéric Mitterrand, the culture minister.

The British performer, who now lives in Paris and Ireland, said she was "very, very grateful to be so honoured".

The award recognises figures who have contributed to the "enrichment of the French cultural inheritance".

"Since I started coming to Paris in 1964, the French have welcomed me and been very loving," Ms Faithfull said.

The singer, who had her first hit in the same year, recently released her 23rd album, *Horses and High Heels*.

She is currently in the middle of a European tour and will perform at the Palais des Festivals in Cannes on April 12.

Previous recipients of the honour include Michael Caine, Stevie Wonder, Roger Moore and Dennis Hopper.

