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Another **80** page bumper issue



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is coming back
to France - page 3

Pension lump sums face new French tax



Photo: © Christophe Bernheim/IPS/MAAPP

The most beautiful of them all?

France's Isabelle Adjani, known for her roles in *Queen Margot* and *Possession*, topped the *Los Angeles Times Magazine's* poll of the 50 most beautiful women in film. Brigitte Bardot came second, while American actress Kim Basinger took third spot.

Legal challenge mounted, while experts differ over treatment of UK tax-free payment

by PETER HAWKINS

LUMP sum pension payments, considered tax-free in the UK, could be taxed by France this year.

UK nationals who live in France and take lump sums in 2011 onwards could have to pay income tax and, for some, social charges, on income that was previously considered tax-free. The law will not be applied retrospectively.

"I did all my financial planning for early retirement based on goal posts which keep moving both in the UK and in France," said reader Debra Tomlinson, a former financial advisor in the UK, who now lives in Burgundy.

Some readers on the verge of collecting pension lump sums have said they will return to the UK to become tax residents where they will be able to receive the money free of tax. Others will need to re-examine their retirement and financial plans.

France's latest *loi de finances* says that lump sum pension payments of more than €6,000 taken after January 1 this year will be subject to tax.

Major financial advice firms say lump sums from Qrops (Qualifying Recognised Overseas Pension Schemes), private and

occupational pensions, but not government pensions or pensions of the self-employed could be taxed. Robert Kent of Kentingtons said: "For those who are living here and have not yet taken their lump sum, this might come as a blow; but generally speaking we were finding that more tax offices were taxing it than not."

There is disagreement over the impact and interpretation of the tax law.

Lawyer David Anderson of Sykes Anderson has written to the French Ministry of Finance saying that its position contravenes the UK/France Double Taxation Convention. "This is clearly something that's going to cause some people a lot of concern," he said.

Mr Anderson believes that only employers' contributions fall under the treaty's definition of pensions as "remuneration paid in consideration of past employment".

Other pension income derived from private pensions, and personal contributions, falls into a catch-all category in the treaty, he says, allowing France to tax it, but treating it as money from a trust, not pension, which is tax-free in France.

Financial adviser Graham Keysell of the Spectrum-IFA Group said: "This has → Continued on page 4

Views vary on impact of new pension tax law

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always been a grey area but there is now no doubt that such lump sums are liable to French tax since January 1. If possible, people should take their lump sum before leaving the UK."

Pensions adviser for Siddalls, Robert Brealey, said the new law at least brought clarity to the situation.

"There are other countries which tax UK pension commencement sums. People are going to examine their options more closely, which is something they should always be doing."

The method for taxing such lump sums involves dividing them by 15. This figure, minus a further 10 per cent deduction, is then added to the final declaration of annual income.

The difference in tax paid before and after the figure is added is then multiplied by 15 to calculate the tax on the lump sum.

It could mean that some people have very little to pay, while others could be hit disproportionately hard

depending on how close their income is to jumping into a higher income tax banding.

The new law was brought in by France to close a tax loophole on French pension lump sums.

Other financial advisors differ over the interpretation of the law, and the workings of pension schemes in both countries.

Financial advisor Michael Annett said that such pension lump sums were in fact the return of original capital and did not class as income. "UK nationals resident in France need not even declare such sums on French tax returns because it is not classed as income and does not fall to be taxed as such," he said.

Bill Blevins of Blevins Franks said: "The tax position depends on whether the original

contributions to the pension were tax deductible or not."

CEO of Sam Group Brian Stewart: "Tax revenues are now demonstrably a worldwide issue where even your hard earned UK pension benefits are no longer exempt from other countries' tax laws."

Lucky example

A COUPLE with an annual income of €15,000 would pay no income tax in France. If one spouse has a pension worth €250,000, the lump sum of 25 per cent of this is €62,500. Divided by 15, and minus a 10 per cent discount this adds €3,750 to their annual income, bringing it to €18,750, still below the threshold to pay income tax.

As there is no additional tax resulting from the addition of the lump sum, this, even when multiplied back by 15, means the sum remains tax free. Not all couples will be so lucky.

Those with incomes bordering higher tax bands could be hit harder.