

Changes to the Inheritance Law in France

It seems to me that this is the most talked about subject amongst expats. Unfortunately, this is why you will hear or have heard so many different stories, but, unless you hear from a professional, don't trust it!

Although the change of law is good news, it's not all plain sailing as French taxes still apply. Here I look at implications and solutions.

17th August 2015

Most of you must have heard that from the 17th August 2015 you will be able to choose the law of your native European country with regard to inheritance law. It basically means that you will not be subject anymore to the minimum percentage you are obliged to give to your children (if you have any). If you don't have any children, it does not change anything. As under French law, you can then give to whoever you want (for that, you simply need to make a Will).

In order to be entitled to this change, you need to make a Will in France or in your native country (if your country has accepted it - UK, Ireland and Denmark have not accepted this law) stating that you want to adopt your native law, as you are not a French citizen. You can make this Will now but it will only be applicable if you die after the 17th August 2015.

The UK has not accepted it because they don't need to, as in the UK, you give to whoever you want anyway. So, British people need to go and see a French notaire and make a Will stating the 17th of August law. Most notaires know exactly what you are talking about and have already drafted some Wills including this change.

French Tax

Assets involved: If you are a French resident (more than 6 months per year in France) all your assets in France and all your movable assets worldwide are subject to French inheritance tax. That means that your savings in the UK are subject to French tax but if you have a property in the UK, it will be subject to UK inheritance law and tax.

If you have a holiday home in France, then only your house in France will come under French tax and your bank account in France will be subject to UK law and tax.

In France, your estate is comprised of assets minus your debt. It is the job of the notaire to ascertain your estate and check any outstanding debts. It is possible to inherit debts!

| | Allowance | Tax/Death duties |
|------------------|-----------|------------------|
| Children/Parents | 100,000 | 5-20% |
| Brothers/Sisters | 15,932 | 35-45% |
| Nephews/Nieces | 7,967 | 55% |
| Others | 1,594 | 60% |

Taxes

Here comes the worst bit. Please note that the changes that will be applied in 2015 will NOT change this.

In the UK, the allowance is for your total assets, here in France, the allowance is for the person that inherits and the amount is depending on their relation to you.

The good news is that there are NO death duties between spouse, Pacs partners or French registered charities.

The bad news is 60% tax between partners (not married or Pacs). So if you have bought a house on Tontine and are not married or Pacs, the survivor of the two will have to pay 60% tax on the half of the house he or she will inherit.

The same problem will occur if you have children from a previous marriage. With the change of law, you can disinherit your children in order to give everything to your new wife on your death, hoping she will then pass on what is left to your children (from the previous marriage). But as those children are not hers, they will inherit from her with 60% tax.

Examples:

1. You are married with two children, your house is worth 250,000€ and your savings 100,000€. You have made a Will and when you die, everything goes to your wife and then your children. Your wife has no tax to pay but when your wife eventually dies, your children will inherit 175,000€ each. The allowance is 100,000€ each so they will have to pay 75,000 x 20% = 15,000€ tax each.

2. You have no children and decide to leave your assets to your two nephews. They are entitled to 7,967€ each, tax free, and have to pay 55% tax on everything above this amount.

Solutions

Donation. A good way to avoid the tax/death duties is to donate your assets to your children while you are still alive. You can give as much as the allowance (100,000€ per child) every 15 years and once you have made the donation you can't die for 15 years! You can give the Nue propriete to your children and keep the usufruit which enables you to give more, as the value of the nue propriete is a % of the value of the assets you donate. It's a bit complicated, so contact me.

Assurance Vie. This is the most popular solution amongst French people to avoid tax in regards to the savings. This is a normal investment composed of secure earnings (around 2.5%), shares or bonds but it has the option of being able to name beneficiaries of your choice. For the money you invest before you are 70 years old, the allowance is 152,500€ per beneficiaries (on top of the allowances given by French tax) and the beneficiaries will only pay 20% tax on what is above 152,500. Otherwise, the allowance is 30,500€ for all the money you put in after you are 70 years old and what is above is added to the assets inherited.

This is a huge tax saving when leaving legacies to unrelated beneficiaries such as friends or step-children who would normally pay 60% tax. It is also quite good if you think your children could be liable to tax as the 100,000€ allowance per child might not be enough.

There are also other advantages to this saving in regards to income tax (but that is another subject).

Obviously if you are interested in an Assurance vie, contact me as it is my speciality!

Phew! I think I have covered most of it. Pretty complicated I know but help is at hand, advice is free with me or any notaire. I can do a study of your situation by simulating your death and calculating the tax, if any, and then we can see what solution is best for you.

Don't hesitate to contact me for any other subjects such as inheritance law, tax, savings, funeral cover or quote on any insurances.

And remember to check out our website where you can find all my previous articles under the 'Practical Information' page on the English site: www.bh-assurances.fr

You can also follow us on Twitter @charenteinsure

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