



## Inheritance Tax Liabilities *by David Hardy*

*"I am a single man resident in the UK with two non-dependent children; I do not own a property in the UK but own a property in France value approx. £150,000. Presently I am assessing the inheritance tax liabilities on my estate in the UK and need advice on the inheritance tax liabilities on the French property in either the UK and/or France.*

*I understand that I can gift the French property to my two children and this would eliminate the liability to pay inheritance tax in France but would this also mean there is no inheritance tax liability in UK?"*

If your place of domicile is the UK, the value of your French property would be included in your worldwide estate for UK tax purposes, with credit being given for any tax paid in France. Your children would be subject to French succession tax (equivalent to UK inheritance tax) on the value of the French property. The tax allowance is currently 100,000€ per child, so, as long as your property is worth less than 200,000€ and you leave it to both children equally, there would be no French tax to pay.



If you were to gift the property to your children, during your lifetime, French gift tax (droits de donation) would be payable. The gift tax allowance in France is also 100,000€ per child, and it is renewed every fifteen years. Therefore, based on the current valuation, there would be no tax payable in France assuming that you have not gifted any other French assets to them in the previous fifteen years. There would be no further French inheritance tax payable by them on your death. Were they to sell the property on your death, they would be liable to French capital gains tax on any gain made since the date of gift. They would normally also be subject to CGT in the UK, with credit being given for any tax paid in France.

However, in the UK you have to consider the impact of both capital gains tax and inheritance tax, if you decide to gift the property.

In the UK, worldwide gifts made by UK tax residents are subject to capital gains tax. If you have lived in the French property at some stage, it is possible that at least part of the gain will qualify for an exemption under the UK Principal Residence Relief. The gain would be calculated based on the current market value of the property since the gift is made to a 'connected person'. If a chargeable gain arises, the tax is levied at either 18% or 28% depending on the level of your UK taxable income. You are also entitled to an Annual Exemption of £11,000 (for the year ended 5th April 2015).

If you are UK domiciled, your worldwide assets are subject to UK inheritance tax. Life-time gifts to children are normally classified as Potentially Exempt Transfers. This means that the value of the assets gifted is not included as part of your taxable estate on your death provided that you survive for seven years after the date of the gift. However, if you continue to use the property yourself, the gift could be considered a 'Gift with Reservation'. In this situation the UK tax authorities argue that you have not made a genuine gift and the value of the property would still remain in your taxable estate. It is possible to avoid this by paying market rent to your children for the periods that you occupy the property personally.

You should also consider non-tax implications of the gift; for example, the children would have control of the property and could sell it even if you wished to keep it available for your use during your life-time.

You may wish to consider retaining a type of life-interest (called usufruit in French). The rules governing gifts are complicated and it is always advisable to get expert cross-border advice if you're considering gifting a French property.

*David Hardy is Regional Manager of Siddalls France, Independent Financial Adviser, specialised in personal tax, inheritance, pension and investment planning for the British community in France since 1996.*

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