Half a billion Euros in refunds : The French social charges saga unfolds

Have you paid social charges on the revenue from your French property? Do you contribute to the social security of another EU Member State?

If so, you would be well advised to read on.

The most recent update to the landmark ruling in the MR de Ruyter case occurred on 27/07/2015, where the Conseil d'Etat *confirmed* a European Court of Justice (ECJ) decision made in February this year regarding French social charges.

The French social charge (namely CSG, CRDS and prélèvement social) is a tax at a rate of 15.5%, which is levied upon capital gain and rental income on French real estate. Since 2012, the tax has had a significant impact upon foreign buyers and investors, however this came under the limelight in a recent case regarding MR de Ruyter. – Link to original case

The ECJ found that the tax in question amounted to social security contributions and it was held that the tax had a 'direct and sufficiently relevant link' to the French social security system. It was held in the case that MR de Ruyter was subjected to unequal treatment in comparison to his French counterparts. He had to to contribute in the Netherlands (his Employment Member State) in addition to the social charge upon the capital gain/rental revenue from his property in France, whereas a resident of France would only have to contribute to the French social security scheme.

The ECJ analysed Regulation No 1408/71, which states that a EU resident must not be required to contribute to the social security system of two EU Member States simultaneously, and that they ought to pay only in the member state that they should receive some benefit from. --- maybe delete?

What does this actually mean?

The 15.5% French real estate income tax no longer applies where an individual is already paying into another social security system in another EU country.

Subsequently, if an individual has wrongly paid this charge, they can also claim for a refund. The impact of this is expected to be significant, as it can apply to both French and non-French residents, conditional upon their status. In order to obtain a refund, time is of the essence and individuals must log their claim within a two year period.

Hypothetically, if you paid the 15.5% social charge on income for instance, on a rental or capital gain in 2013, you would have until the 31st of December of this year to register a claim. In light of this, those who may be eligible for a refund are strongly advised to log their claim at the first available opportunity.

The French government has reportedly set aside half a billion Euros over two years for repayments, although the figure is likely to exceed this amount.

What about non-EU residents?

As this decision related to a EU citizen, we are awaiting a decision to see whether this applies to non-residents. Nevertheless, it seems likely that these refunds could be applicable to all, dependant on the existence of tax treaties between France and the country of residence. This could then lead the way for review of other social contributions, however the landscape is evolving, as France is currently reviewing the amalgamation of income tax and social charges. The landscape regardless appears favourable for Non EU residents, following a Supreme Court decision in October, which stipulated that non-EU residents may not be treated adversely in comparison to their EU counterparts.

For advice regarding your position in respect of the de Ruyter Decision, alongside any other issues or queries relating to French real estate or tax law generally, please contact our offices:

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