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French tax grab could breach EU law

France's decision to slap steep, retrospective taxes on British holiday homeowners in the country could breach EU law, a former French finance minister has warned.



La Roque-Gageac on the Dordogne river. Life in France is about to get more expensive for the British. Photo: ALAMY

By Henry Samuel and James Hall
10:00PM BST 05 Jul 2012

The taxes could also cause house prices to slump in France as Britons will be reluctant to buy or sell houses, property experts said.

Around 200,000 British people own second homes in areas such as Normandy, Brittany and the Loire Valley.

France's new socialist Government announced on Wednesday that it plans to increase tax on rental income from 20 per cent to 35.5 per cent, and raise capital gains tax when people sell properties from 19 per cent to 34.5 per cent.

However Jean Arthuis, who was finance minister under right-wing Prime Minister Alain Juppé in the 1990s, said that the increased taxes could be unconstitutional under French law and therefore judged unfair by the European Union.

This is because the tax raid would be classified under French rules as a "social contribution" which absent British homeowners would receive very little benefit from.

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Mr Arthuis said: "What creates ambiguity is to call the tax a "social charge", as when one is a foreigner one can rightly claim that one doesn't gain from as many social benefits as the French."

Meanwhile property experts said that the taxes could cause house prices to fall in France. This is because people will be reluctant to buy houses knowing that they will be hit with heavy taxes when they come to sell the properties. The taxes will also deter people from selling houses, causing the market to stagnate.

Jean-Michel Crassat, secretary general of the Dordogne chamber for the French real estate agency federation (FNAIM), said: "There is a risk that it will drive prices down."

"Sales prices have already hit a 130,000-euro ceiling in the region, and anyone who bought five years ago is liable to sell for less than their purchase price right now. But this might accelerate the drop as some people throw in the towel and say: 'That's it. I'm off. I don't want to be a will be reluctant to buy or sell houses, property experts said.

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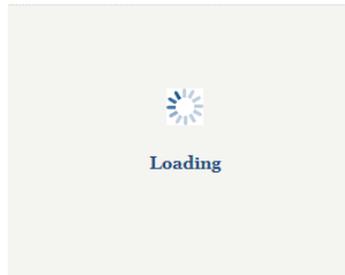
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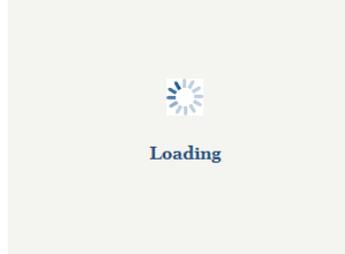
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Jean-Michel Crassat, secretary general of the Dordogne chamber for the French real estate agency federation (FNAIM), said: "There is a risk that it will drive prices down."

"Sales prices have already hit a 130,000-euro ceiling in the region, and anyone who bought five years ago is liable to sell for less than their purchase price right now. But this might accelerate the drop as some people throw in the towel and say: 'That's it, I'm off, I don't want to be a cash cow any longer,'" he said.

"It could also slow down purchases as people don't want to buy in a country where you're taxed to the hilt."

"I think it's a monument of idiocy as it will likely engender fraud and under the table practices that had all but been stamped out. Too much tax kills tax."

Patrick Delas, a solicitor at Russell-Cooke Solicitors in London, said: "I am not sure this will affect the property market immediately but people may think twice about selling and the market will certainly slow down."

Cathy Dursapt, an estate agent in Eymet in the Dordogne, said she had fielded an "avalanche" of calls from concerned customers and acquaintances about the tax rises. But she remained cautious, saying: "I'm French and I tell them never to believe a French law until it takes effect".

Second-home owners were aghast at the news.

Nicola and Oliver Turner, both 43, bought a rundown barn in the hamlet of Monbazillac, rural Dordogne five years ago for 100,000 euros. Mr Turner has painstakingly restored the property himself.

Given all the restoration work, their holiday home is now on the market for 300,000 euros, meaning they stand to pay up to 69,000 euros given the new capital gains tax.

Speaking from her home in Hertfordshire, Mrs Turner said she was "gutted" about the new hike.

"As far as the French is concerned it's all profit and we can't offset our expenses to bring the profit down. We're not going to be in a good position once it's sold, we'll basically come out of it with nothing."

The rise in tax on rental income will be retrospective, from Jan 1 this year. The increase in capital gains tax may apply from this week, and certainly by the end of the month, meaning property owners will have little or no time to escape the increased tax by selling their homes.

Treasury sources said the department is examining France's proposals. "If there is any discrimination we will challenge it," the source said.

Jean-Sébastien Dumont, international tax lawyer based in Paris, warned that the new measures were likely "the tip of the iceberg" in terms of new tax for foreign home owners.

"We just had a corrective tax law, but we all know that the lion's share of the new measures were not announced yesterday but will be rolled out in the autumn."

One opposition politician dubbed the measure a "250 million-euro lie" on the part of President François Hollande's Socialist government, as it had specifically pledged not to raise taxes for non-residents in its electoral programme.

Olivier Cadic, a UK based centre-Right member of the Council for the French Abroad, said he found the charges "scandalous".

"The Socialists made it clear during their electoral campaign that they would not impose any specific tax for non-residents in Switzerland and Luxembourg. This is proof that they lied to the tune of 250 million euros per year," he said.

Karen Tait, the editor for French Property News, said: "It's not good news, but it has to be put in perspective to a certain degree. If your French home is your main home, it doesn't affect you at all."

"A lot of British home owners also actually don't rent out their second homes," preferring to use them for vacations or to house travelling

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friends. She felt that since groups strongly campaigned against a similar, dropped proposal by Nicolas Sarkozy, "there's some hope the same thing could happen again."