

Same-sex couples purchasing property in France

France was ahead of the UK when in 1999 it created the “PaCS” or “*Pacte Civil de Solidarité*”. The PaCS is open to same-sex couples or heterosexual couples. It is a contract designed to regulate the life of the couple and with a primary responsibility of providing each other with mutual and material aid and dealing with the payment of joint living expenses.

Assets are kept separate with certain modifications: for instance the furniture and other assets are presumed to be held equally unless the purchase deed or subscription provides otherwise.

Whilst the effect of the PaCS is very much less when compared with Civil Partnership in the UK, there are certain limited advantages from a tax perspective, such as a reduction of 20% on the inheritance tax due on the value of the principal residence. However, French inheritance tax is payable after a global allowance of only 57,000 euros. Tax is then due at a combined rate of 40% (for any amount up to 15,000 euros) and 50% thereafter. This can seem to be an advantage, albeit marginal, over the 60% full rate due between non-related partners, but falls well short of the spouse exemption (civil partnership exemption in the UK) or the tax treatment of the surviving spouse in France.

The administrative rules for the creation and registration of the contract with the Court can be fairly onerous at the outset, but in the event of a dispute, the PaCS can be terminated by agreement or on one party giving notice.

It should also be noted that whilst there are certain tax advantages with the PaCS, it will not override the rights of parents / children under French succession rules where the Civil code provides for a reserve for the heirs.

At the current time, the couple have to have their common residence in France for them to enter into a PaCS or one of them must have French nationality if they live abroad.

The PaCS was created against a background of fierce political and social opposition in France and its provisions in retrospect can appear somewhat conservative when compared with the arrangements now in force in neighbouring countries, (e.g. Belgium, Germany, UK and the Low countries). The law at the time was ground-breaking and as a result its impact was severely limited. There is discussion at the present time as to whether the effect of the PaCS should be extended taking into account the change in public opinion since its inception.

An omission in the original law means that the question of conflict of laws was not dealt with. As such, it is probable that at the current time a Civil Partnership, whilst not being

recognised as the equivalent of a marriage in France with the associated tax breaks, will not either be recognised as a PaCS. The subject is a hot topic for debate at the present time pending a test case in the Courts.

It does appear that France will recognise same-sex marriage, for instance introduced by the Dutch law on 1 April 2001, provided that neither of the spouses is of French nationality.

It is essential for same-sex couples purchasing properties in France to obtain specialist advice as regards the method of ownership and tax and legal consequences of their purchase prior to being committed. Our department was recently consulted by the researchers for the television programme "Relocation Relocation" in connection with a same-sex couple who wished to purchase a property in France to be their principal residence. As a result of our advice, the couple in question decided not to proceed, unfortunately for the programme makers!

If you would like any further information please contact:

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