

Real estate investment in France

for non-residents

2020 version

**Combining skills and sharing knowledge
for better performance**

Earning the trust of our clients since 2003

fin | immo
Luxembourg S.A.

INTRODUCTION

France is undoubtedly one of the world's most beautiful countries. More and more, non-residents are buying property in France to enjoy the French way of life with their families and friends, or as a short to medium-term investment.

Unfortunately, France has very complex legal, administrative and tax systems. If dealt with in a timely manner, however, these obstacles are less daunting than they may seem. It is therefore essential to ask the right questions before committing to a purchase.

For 15 years, Finimmo has helped non-residents invest in real estate, both in France and abroad. The specialised knowledge we have thus collected can be used to guide you through the range of situations you are likely to encounter when purchasing, owning or selling real estate.

Our primary concern is making sure you are in the best position to achieve your goals, and to make the process as smooth and rewarding as possible.

This brochure provides answers to your most pressing questions when considering a real estate investment.

I trust you will find it interesting and informative.

Benoît de Froidmont
President and founder
✉ bdf@finimmo.com



fin | immo

WHY?

Investing in real estate abroad raises complex questions for a number of reasons:

- ➔ Each country makes its own laws and tax policies.
- ➔ These will apply to residents of the country in question, but may also apply to those not permanently residing there due to existing bilateral agreements. Property ownership is the perfect illustration of this, since the vast majority of bilateral agreements stipulate that buildings should be taxed where they are physically located.
- ➔ The complexity of these agreements means they can be interpreted and applied inconsistently, leading to different rulings and a large body of case law.

Constantly changing and increasingly complex and restrictive legal and tax frameworks make standardisation impossible. It is therefore essential to monitor these continuously, and be able to quickly analyse and react to them.

WHEN?

BEFORE YOU INVEST

It is important to make the right decisions at the outset. The legal structure you choose at this point will determine how your investment is viewed in the future for the purposes of direct and indirect taxes.

WHILE YOU INVEST

Everyday property management is largely the same in all countries, but each country has its own peculiarities. Our teams of specialists will help you navigate these details throughout the lifespan of your investment so that you can focus on enjoying your property with full peace of mind.

Your situation may also change over time; for example, if you change residences or re-plan your estate. Even if it does not, the legislation around you may change. As a result, it may be necessary to adjust some aspects of your ownership.

We help you make informed decisions by analysing the opportunities open to you and any potential limitations, and assist you in restructuring your assets.



WHAT ALL NON-RESIDENTS SHOULD KNOW

WHEN BUYING REAL ESTATE IN FRANCE

The following information is intended solely to provide an overview of French real estate law and taxation for non-resident natural persons. It is neither an exhaustive analysis of the law and its interpretation nor legal advice of any kind.

All legal provisions must also be analysed in light of any double taxation agreements signed between France and your country of residence that may affect their scope.

WHAT'S NEW THIS YEAR?

Legal and tax provisions are constantly changing.

- ➔ However nothing major is to be noticed this year, except the tax bands for income tax which is raised by 1%.

PURCHASE

In France, as in many other countries, there are generally two phases to buying real estate.

1. THE PRELIMINARY CONTRACT

This may involve different forms of commitment with vastly different features and consequences:

	Promesse de vente (agreement to sell)	Offre d'achat (offer to purchase)	Compromis (provisional sales agreement)
Who is committed	The seller	The buyer	Both parties
Purchase deposit generally paid by the buyer	10%	Never	5% to 10%
Standard term	2 to 3 months	10 to 15 days	2 to 3 months
Registration	Compulsory	If longer than 18 months	Optional
Completed sale	No	No	Yes
Withdrawal period	10 days from the date of signature		

HOWEVER...

Preliminary contracts may be subject to certain conditions like the granting of a bank loan, the municipality's right of pre-emption, or obtaining a building permit. If these conditions are not met the contract becomes null and void and the parties are released from their commitments. In such cases, the deposit is returned to the buyer.

2. THE DEED OF SALE

The deed of sale is a physical representation of the transaction. It is executed before a French notary two to three months after the preliminary contract is signed. Typically, each party will have their own notary. During this period the notaries gather necessary information and documents and perform customary legal checks in order to protect the parties' interests.

Buying your property will incur legal fees for the notaries and any outlays, as well as registration fees. These costs will amount to approximately 7% of the purchase price.

When buying a new property through a developer, the 5.09% (increased at 5.80% in most of the departments) registration fee is replaced by a cadastral tax of 0.715%.

PAY LESS TAX!

You can reduce your registration fees by bearing the estate agent's fees yourself and by separating the furnishings from the actual property in the selling price. These two components are not subject to transfer tax.

LOCAL TAXES

Local taxes are levied not by the State but by regional and local authorities (regions, departments and municipalities). Local taxes include property tax on buildings and undeveloped land, as well as council tax.

➔ **Property tax** is based on the cadastral rental value calculated by the government. It is payable annually by the owner of the property.

➔ **Council tax** is payable by everyone with the right to reside in a given dwelling in habitable condition on 1 January of each year. In addition to typical occupants (owners, tenants and occupants living in the property free of charge), it can apply to anyone who may potentially occupy the dwelling. This is the case for the owner of a second home, even if no one actually occupied the home on 1 January of the tax year in question.

Tax notices are mailed out in the second half of each year. You can also view and pay them online at www.impots.gouv.fr.

DID YOU KNOW?

These two taxes are calculated based on the theoretical annual rent that the property would generate if rented out under normal market conditions (the cadastral income). But this "income" is assessed on a flat-rate basis according to 1970 rental market conditions for buildings and 1961 conditions for undeveloped land. These rates **have never been revised** and can produce numbers that are out of touch with reality!

TAX ON RENTAL INCOME

Any income you receive from letting your property as seasonal accommodation is taxable in France.

From a tax point of view, furnished rentals (seasonal) are treated as industrial and commercial profits (ICP), and not as real estate income as one might assume. The latter treatment applies only to unfurnished rentals. This difference changes how income is declared and taxable income calculated.

There are two main regimes for the taxation of industrial and commercial profits

	Flat-rate scheme (Micro ICP)	Actual taxation scheme
Income	< EUR 72,500 per year	> EUR 72,500 per year
Deductible expenses	Flat-rate = 50% of net income	Notary's fees (year of purchase) Utilities: water, gas, electricity Maintenance and repair costs Condominium fees Local taxes Loan interest Insurance Depreciation of the property (≈ 2% per year) Depreciation of furnishings (10% to 20% per year)
Accounting requirements	Cash book	Balance sheet Profit and loss account Depreciation tables Provisions table

The net income is taxable according to a sliding income tax scale.

2020 INCOME TAX SCALE

EUR 0 to EUR 10,064	0%
EUR 10,064 to EUR 27,794	14%
EUR 27,794 to EUR 74,517	30%
EUR 74,517 to EUR 157,806	41%
In excess of EUR 157,806	45%

On top of this tax, you must pay a mandatory supplementary contribution of 17.2% in social contributions.

NON-RESIDENTS

As a non-resident your minimum tax rate is 20% (increased at 30% above EUR 27,794) plus the 17.2% social contributions.

BELGIAN RESIDENTS ARE TAXED TWICE

Did you know that a Belgian resident who owns property in France through an SCI (real estate investment company) and rents it out will be taxed in both France and Belgium on the same income? Therefore, due to the current agreement between these two countries, you should avoid using an SCI as your investment vehicle if you intend to rent out your property.

AND ANOTHER TAX!

Capital gains in excess of EUR 50,000 are subject to a top-up tax of 2% to 6% (above EUR 260,000). That's a marginal rate of 42.2%!

TAX REPRESENTATIVES

If you live outside the EU or the EEA and if the selling price is more than EUR 150,000, you must appoint a tax representative in France who ensures that the capital gain is correctly determined and tax is paid on it. The cost of such a representative will be around 1% of the selling price.

CAPITAL GAINS TAX

Naturally, the sale of property in France is taxable in France.

The taxable capital gain is the difference between the cost price of the property and the net sale price.

The tax rate is 19% + 17.2% in social contributions.

COST PRICE

The cost price has three components:

- ➔ The purchase price
- ➔ The costs incurred at the time of purchase (actual costs or flat-rate of 7.5% of the purchase price)
- ➔ Improvements made during ownership of the property (actual costs or flat-rate of 15% of the purchase price after five years of ownership)

DEDUCTIONS

The taxable capital gain is reduced based on the number of years of ownership starting from the sixth year.

Depreciation is calculated over 22 years.

The social contributions allowance is calculated over 30 years.

EXAMPLE

Ten years ago, you bought property for EUR 5,000,000.

Today you resell it for EUR 8,000,000. (You no longer have receipts for the purchase or any improvements made.)

Your cost price = EUR 5,000,000 + 7.5% + 15% = EUR 6,125,000

Your taxable capital gain is thus EUR 8,000,000 - EUR 6,125,000 = EUR 1,875,000

After ten years of ownership you can deduct 30% of the taxes and 8.5% of the social contributions.

What you pay

Tax: EUR 1,875,000 - 30% * 19%	EUR 249,375
Social contributions: EUR 1,875,000 - 8.5% * 17.2%	EUR 295,087
Top-up tax 6%	EUR 112,500
Total tax bill	EUR 657,797 (35%)

If the sale had been completed before the sixth year your tax rate would have been 42%, i.e. EUR 791,250.

REAL ESTATE WEALTH TAX (IFI)

WHO IS AFFECTED?

Non-resident natural persons will be liable for IFI if they hold property assets located in France with a net value of over EUR 1,300,000 on 1 January of the year in question.

WHICH ASSETS ARE TAXABLE?

Where assets are held directly by a natural person, only French properties and property rights are subject to tax.

Where assets are held through a legal entity, the taxable base is calculated by multiplying the fair value of shares (total assets - liabilities) by the percentage of assets invested in real estate and property rights (real estate assets/total assets).

Example:

Real estate 40, other assets 60, liabilities 10

Taxable base = $90 * (40/100) = 36$

The taxable base has therefore risen from 0% to 90% of the fair value of the asset.

IMPORTANT NOTE

In the event of the division of the ownership of a property through gifting, the usufructuary is liable for the IFI calculated on the value of the property on a full ownership basis.

TAX RATES

The tax scale applicable to assets held on 1 January 2020 did not change this year.

Taxable fraction of the net value	Tax rate	Quick calculation method
≤ EUR 800,000	0%	Taxable base* 0%
> EUR 800,000 and ≤ EUR 1,300,000	0.50%	(Taxable base* 0.5%) - EUR 4,000
> EUR 1,300,000 and ≤ EUR 2,570,000	0.70%	(Taxable base* 0.7%) - EUR 6,600
> EUR 2,570,000 and ≤ EUR 5,000,000	1%	(Taxable base* 1%) - EUR 14,310
> EUR 5,000,000 and ≤ EUR 10,000,000	1.25%	(Taxable base* 1.25%) - EUR 26,810
> EUR 10,000,000	1.5%	(Taxable base* 1.5%) - EUR 51,810

NB: although the tax threshold is EUR 1,300,000, assets in excess of EUR 800,000 are taxable.

TAX DEDUCTIBILITY OF DEBT

THE END OF THE INTEREST-ONLY LOAN

1. Interest-only loans are only be partially tax-deductible in the amount of the total theoretical annual payments (i.e. the loan amount divided by the number of years), adjusted to reflect the number of years remaining until the loan matures.
2. Intra-family loans within the taxpayer's tax household or between the taxpayer and a member of his/her family are no longer tax-deductible under IFI, unless it can be proved that the loan was granted under normal market conditions.
3. For taxable assets in excess of EUR 5,000,000, the tax-deductible debt amount is now capped: if a debt is worth over 60% of the value of the asset, only 50% of the percentage of the amount over and above this 60% threshold will be tax-deductible.
4. In case of a loan without maturity for the reimbursement of the principal, the debt is only deductible in the proportion of the total amount of the loan reduced by one twentieth for each elapsed year as from the disbursement.

Example: An asset worth EUR 12,000,000 financed through a loan of EUR 10,000,000 over five years will be taxed as follows:

Tax year	Calculation method	Deductible amount	IFI
1	$\text{EUR } 12,000,000 * 60\% + 2,800,000 * 50\%$	EUR 8,600,000	EUR 19,690
2	$\text{EUR } 12,000,000 * 60\% + 800,000 * 50\%$	EUR 7,600,000	EUR 29,690
3		EUR 6,000,000	EUR 48,190
4		EUR 4,000,000	EUR 53,190
5		EUR 2,000,000	EUR 98,190
6		EUR 0	EUR 128,190

INHERITANCE

In the event of death, even if neither the deceased nor the heirs reside in France, property located in France will be subject to estate tax in France.

There is no estate tax on transfers between spouses, and various deductions exist depending on the family ties (EUR 100,000 per child and per parent, EUR 31,865 per grandchild).

FOR FIRST-DEGREE RELATIVES THE FOLLOWING SCALE IS APPLIED:

Portion taxable after deductions	Tax rate
Less than EUR 8,072	5%
Between EUR 8,072 and EUR 12,109	10%
Between EUR 12,109 and EUR 15,932	15%
Between EUR 15,932 and EUR 552,324	20%
Between EUR 552,324 and EUR 902,838	30%
Between EUR 902,838 and EUR 1,805,677	40%
Above EUR 1,805,677	45%

The tax rate is 45% between siblings and 55% for nephews and nieces.

WILL YOU PAY TWICE?

Fortunately, most agreements between countries state that when an asset is taxed in one country, it is not taxed in the other. But where no agreement exists, you may indeed be taxed twice. This is currently the case between France and Switzerland as regards estate tax (following the termination of such an agreement by France in 2014).

GIFTS

Gifts and unremunerated transfers of assets are generally taxed in accordance with the same principles as for an inheritance.

Deductions may be applied more than once, but at least 15 years must have passed between gift transfers.

Making a gift does not give rise to a potential capital gains tax liability in relation to the purchase price of the asset.

PAY LESS TAX!

As a rule, taxes on gifts are paid by the donee. Nevertheless, current legislation allows the donor to pay such taxes in the donee's place without this amount being added to the value of the asset gifted to the donee.

DIVISION OF OWNERSHIP

The right of ownership is defined as the right to use a property, to receive income on it and to dispose of it.

It is possible to divide the right of ownership, which will then consist of the following.

- ➔ **Usufruct:** the right to use the property and receive income on it.
- ➔ **Bare ownership:** the right of disposal.

Usufruct is by nature temporary; that is to say it lapses upon the death of its holder. At that time the bare owner recovers full ownership of the property free of tax.

The division may become effective at the time of the death of the full owner, with the usufruct devolving on the surviving spouse and the bare ownership devolving on the children. It may also be gifted.

THE VALUE OF THE USUFRUCT IS CALCULATED AS A PERCENTAGE OF THE VALUE OF THE PROPERTY ACCORDING TO THE AGE OF THE USUFRUCTUARY.

Age of the usufructuary	Value of the usufruct	Value of the bare ownership
Up to 20 years of age	90%	10%
Between 21 and 30 years of age	80%	20%
Between 31 and 40 years of age	70%	30%
Between 41 and 50 years of age	60%	40%
Between 51 and 60 years of age	50%	50%
Between 61 and 70 years of age	40%	60%
Between 71 and 80 years of age	30%	70%
Between 81 and 90 years of age	20%	80%
Age 91 and above	10%	90%

CONCLUSION *f*



Even if France seems like a true tax hell after reading this, there are many simple, legal ways of minimising the tax burden on your investment, depending on your objectives.

Here are some questions that you should address before committing.

➔ **What do I want to buy?**

- A plot of land
- A project under construction
- A new property (< 5 years)
- An existing property (> 5 years)

➔ **Why do I want to buy it?**

- To build, extend or renovate
- To live there occasionally or permanently
- To let it to tenants

➔ **Then what do I want to do with it?**

- Resell it in the short or medium term
- Pass it on to my heirs

With this preliminary information, we can quickly guide you through the first steps and provide an analysis of your situation that will help you make the right choices before signing a sales agreement or a deed of sale.




Feel free to get in touch whenever you like

FINIMMO LUXEMBOURG

18, rue Robert Stümper
L-2557 Luxembourg
Tél : +352 26 38 92 40


Adrien Rollé

 ar@finimmo.com

FINIMMO GENEVA

1, Rue Petit-Senn
CH-1207 Genève
Tél : +41 22 700 48 08

Michel de Beytia

 mb@finimmo.com

FINIMMO MONACO

Le Mercator
MC98000
Principauté de Monaco
Tél : +377 99 99 47 27

Giacomo Bozano

 gb@finimmo.com

fin | immo

Luxembourg S.A.