

French Property Ownership

Background

In recent years it has been common practice for both French and foreign owners to hold French residential and commercial property in offshore structures.

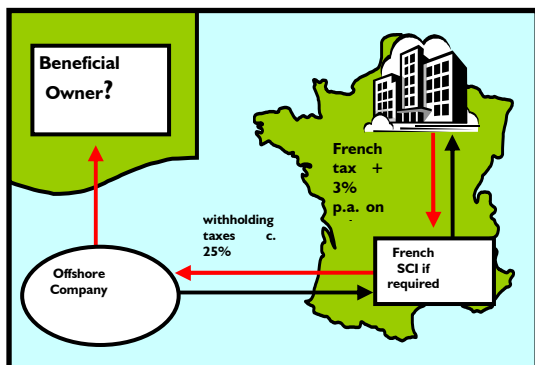
These structures were used in order to avoid certain French wealth taxes, property transfer taxes, forced heirship provisions and in some cases, to shelter the income produced from the property.

In addition of course, many clients felt a need to protect their confidentiality through the use of such structures.

In common with many other European jurisdictions the tax authorities in France have introduced various regulations aimed at ending these practices.

The regulations

In essence the tax regulations that we are concerned with state that where property is not owned by a named individual person resident in France or a tax-treaty partner of France, an additional tax equal to 3 per cent per annum of the property value will be charged. If the property is held by a corporation of any sort, French resident or offshore, it is necessary to declare the beneficial individual ownership.



This is an example of a typical French property ownership structure. In this case we have a commercial development, producing rental income in France. It is owned by a Société Civile Immobilière (SCI), which in turn is owned by a BVI company.

Tax is of course payable in France on the French source income at SCI level. If the client wishes to route the tax paid dividends out to the BVI, it is likely that substantial withholding taxes will apply. There will be similar treatment of any gains realised upon the sale of the property.

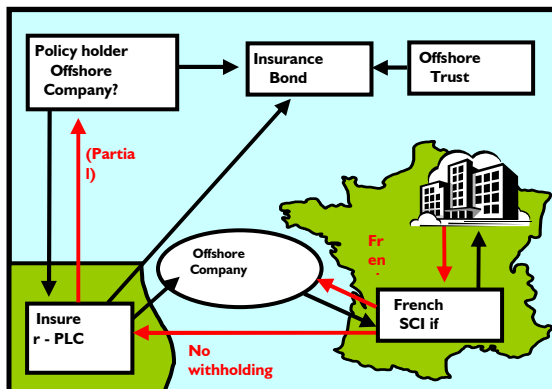
In addition, this structure will attract a 3 per cent charge per annum on the value of the property.

There are two exceptions allowable to the 3 per cent tax rule:

- If the property is owned by a bona fide employee pension fund
- If the property is ultimately owned by a publicly quoted company on a recognised stock exchange

It is the second provision we are concerned with.

The solution



Here we have the same structure, with an SCI holding the property title and a BVI or

other offshore company holding the shares of the SCI.

In this case however, the ultimate beneficial ownership of the offshore company lies with International Insurance Company PLC. This structure therefore benefits from the second exemption referred to previously.

Our client is merely the beneficial owner of an offshore company, which in turn is the policyholder of an insurance bond.

Although the French source taxation rules still apply, this structure has very important benefits:

- The 3 per cent tax is avoided whilst at the same time keeping the tax and confidentiality benefits of an offshore structure
- It will normally be possible to design the structure in such a way as to gain treaty protection for tax paid dividends to be paid through to the European insurance company
- No further taxes are payable inside the insurance policy
- The policy can be surrendered in full (sale of the property) or partially (rental income) at any time and proceeds can be paid tax free into the offshore policy holder company
- The structure by itself, or with the simple addition of a trust, provides the client with extremely effective and robust tax, asset protection and estate planning opportunities

ILS has successfully concluded negotiations with a major European insurance company, quoted on major European stock exchanges to offer this structure to appropriate clients.

It should be noted that due to the complexity of this structure, it is unlikely to be cost

effective for properties valued at less than one to two million Euros.

What ILS can provide

- Structuring and establishing of holding companies
- Establishment of bank accounts
- Preparation of contracts
- Administration
- Accounting
- Officers of the company, subject to restrictions

The next step

Contact us at

ILS Switzerland

First Floor, Place de Saint-Gervais I

1211 Geneva I

Switzerland

Telephone +41 22 909 80 50

Fax +41 22 731 56 02

E-mail switzerland@ils-world.com

Web www.ils-world.com

Please note that ILS Fiduciaries (IOM) Limited does not offer tax advice. If you are not professionally qualified to give tax advice, we will be happy to make an appropriate introduction.