

## SHORT-TERM FURNISHED RENTAL ACTIVITY

### in FRANCE

Updated January 2018

The Macron government voted in their 2018 French Finance and Social Security Law in December 2017 and some of the previous rules related to furnished rental activities have been modified. This is in addition to the new obligations that were voted the *previous* year (Dec 2016) for furnished rental landlords with regards to affiliation into the French welfare system (see specific paragraph related to this).

#### GENERAL POINTS RELATED TO FURNISHED RENTAL

- \* for any kind of furnished rental, you are obliged to declare your business to the local authorities
- \* you may register the business in your personal name or as a company structure of some kind
- \* you may choose to provide self-catered accommodation or fully catered accommodation; the latter is classed as "hotel-type services" for which there are various conditions (see below)
- \* depending on the level of turnover you hope to earn, ownership details and a few other criteria, you can choose either the simplified "MICRO" regime or the profit and loss "REEL" regime - the micro regime will carry much lower accountancy costs but the profit and loss regime enables you to deduct all costs, mortgage interests and a value for depreciation but would mean a higher annual accountancy bill for drawing up end of year accounts
- \* according to the turnover level and your personal situation with regards to VAT paid on the property, you may choose to or be obliged to be registered for VAT (although furnished rental without hotel-type services is not generally subject to VAT)
- \* if you are buying a property "off-plan" or one that has recently been fully refurbished as new, there may be the possibility of a VAT rebate (please note there are many conditions to this)
- \* since the change in law, more furnished rental landlords will now be obliged to register as the equivalent of a "professional" landlord and pay social security contributions

#### DIFFERENT TAX REGIMES

For all property purchased and registered in your **PERSONAL NAMES**, here is a brief explanation of the difference in the two regimes indicated above for "non-professional" furnished rental :

1) **REEL regime** (profit and loss) = taking your **true income** and your **true costs** into account, deducting all expenditure justifiably related to your furnished rental activity - including mortgage interests, property ownership tax (taxes foncières), insurance, utilities, maintenance & repairs, management or agency fees, advertising costs, accountancy fees, bank charges, as well as an allowance for depreciation each year (calculated on a pro-rata basis according to number of weeks available for rental). You are obliged to have a separate "professional" bank account for the income and expenditure related to this activity.

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In this regime, you would be obliged to provide all your receipts and rental agency statements (where applicable), bank statements and mortgage statement showing interest paid, copy tax bills, and so on, to enable us to carry out your annual accounts on your behalf but you may find that your accounts are in DEFICIT if you have more expenditure than income, in which case you may have little or no *income tax* to pay in France. If there are joint owners, you may be obliged to use this regime as the following simplified regime is an “individual enterprise” in one name only.

There is no limit to the amount of rental income that can be earned on this regime.

*In terms of accountancy, there will be an annual fee for drawing up your profit and loss accounts and submitting a declaration for the furnished rental + income tax declaration - as a guide, annual fees are in the region of 1,000€ + VAT (1,200€); this would be between 1,800-2,000€ + VAT the first year if the financial year crosses two French tax years, as a set of provisional accounts has to be drawn up as at 31/12 as well as the definitive set of accounts at the chosen year-end.*

2) **MICRO regime** = a simplified regime where you simply declare your gross income (no deductions) and the French tax authorities give you a **fixed allowance** before tax. For furnished rental this is usually an allowance of 50% (unless your property has been classified with a tourist certificate, which would mean an allowance of 71%!). In this regime you have NO PAPERWORK to provide apart from proof of income (agency statement, reservations list), and you simply confirm the figure for the annual turnover and it is inserted onto your income tax return - no end of year accounts are required.

This regime has certain conditions :

- The MICRO regime applies only to an **individual enterprise**. Only one person can earn the rental income in their own name and if the property is jointly owned, this regime may not be an option
- There is a limit to the amount of turnover that can be earned on this regime
  - > **without tourist certificate** : maximum turnover of 70,000€ (previously 33,100€)
  - > **with tourist certificate** : maximum turnover of 170,000€ (previously 82,800€)

*In terms of accountancy, there is an annual income tax return to submit - for residents this fee will vary according to other household income (fees start at 450€ + VAT) and for non-residents where this is the only income, fees are in the region of 220-250€ + VAT (264-300€).*

NB : If you decide to set up a **COMPANY** to purchase the property and/or run the business, the accountancy fees would be higher and you would be obliged to use the REEL regime (annual fees could be in the region of 2,000-4,000€ + VAT, *as a guideline only*) depending on various criteria. A more specific quote would be provided once we knew the full details of your business.

### PROFESSIONAL LANDLORDS

Up until December 2016, you could only opt to be a “professional” landlord if you fulfilled the following conditions :

- annual turnover exceeded 23,000€
- this turnover made up more than 50% of the household global revenue
- your activity was registered with the French equivalent of Companies House (RCS)

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Being a professional landlord means paying into the French welfare system for healthcare cover and a basic pension. These social contributions are in addition to the general social contributions and national debt contributions which are the *social taxes* of 17.2%, which are being applied retrospectively to all types of rental income from 2017 revenue (previously 15.5%).

This option of professional landlord was useful for residents who earned the majority of their household income from their furnished rental activities, particularly if they did not have any other professional activities and were not already contributing into the welfare system.

### **2017 FRENCH FINANCE & SOCIAL SECURITY LAW (voted in December 2016)**

However, after much debate in French government and lobbying from French hôteliers, due to the increasing use of internet platforms such as Airbnb, the definitive legal text in the 2017 French Finance and Social Security Law brought in *stricter rules* for furnished rental landlords, as follows :

- for any *short-term* furnished rental *turnover* exceeding **23,000€** per annum, the furnished rental landlord is obliged to affiliate to the French self-employed social security system (RSI) and pay social contributions, like with any other *professional* activity
- if the furnished rental turnover does NOT exceed this threshold, the income is only subject to the 17.2% social taxes (general social contribution and contribution to the French national debt), previously 15.5%
- there is an option, if the turnover exceeds 23,000€ but does not exceed the MICRO threshold of 70,000€ (previously 33,100€), for the furnished rental landlord to affiliate to the general social security system (via CPAM) instead of RSI

### **AIRBNB**

The new law has also put in place an obligation for internet platforms such as Airbnb to DECLARE to the French administration the details of all their users and the amount of income made through the use of their intermediary service!

From 2018, furnished rental landlords using intermediaries such as Airbnb will be able to authorise the intermediary to carry out the formalities of affiliation and payment of social security contributions on their behalf.

### **WHAT DOES THIS MEAN WITH REGARDS TO THE LEVEL OF SOCIAL SECURITY CONTRIBUTIONS?**

The information provided relating to the calculation of the social charges was unclear in 2017 and the application of the “quasi professional” status does not appear to have been put in place by the RSI to date - they do not appear to know how to apply this! However, a document has been produced by the authorities suggesting that the **auto-entrepreneur** (“pay as you earn”) system can be used for anyone whose turnover exceeds 23,000€ but does not exceed 70,000€ (previously 33,100€), meaning that social contributions of 22.7% of *turnover* would be paid for properties without a tourist certificate, or 6% of *turnover* for properties with a tourist certificate, by means of a monthly or quarterly turnover declaration.

For those who opt for the general social security regime (via CPAM), contributions calculated on the salaried employees’ scale will be made on 40% of turnover for properties without a tourist certificate (ie *60% allowance*), and on 13% of turnover for properties with a tourist certificate (ie *87% allowance*).

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Social contributions on the profit & loss (REEL) regime are likely to be around 40-45% of profit and it has been stated that if there is ZERO profit, there will be minimum social contributions in the region of 1,200 Euros per person.

### ***NON-RESIDENT SHORT-TERM FURNISHED RENTAL LANDLORDS***

There is absolutely no information available relating to non-resident landlords so we cannot confirm anything specific.

However, we are hoping that those who already pay NI contributions in their country of residence for the same category of activity can obtain an A1 certificate from their country's social security organisation (HMRC for the UK) covering the whole period the property is available to let, justifying their contributions in their country of residence and therefore enabling the cancellation of the French social security contributions.

In this case, the auto-entrepreneur status for non-residents is NOT the right option as there is no way of cancelling social contributions, they are obligatory!

### **REGISTRATION WITH THE AUTHORITIES**

Whichever tax regime you fall under, you are obliged to register your rental activity with the local authorities.

*We provide this service for a one-off fee of 250€ + VAT (300€) for registration in your individual name (where you are sole owner or married under the common property regime).*

*For registration in joint ownership as a partnership (REEL regime obligatory), the one-off fee is in the region of 350€ + VAT (420€).*

*The one-off registration fees are considerably higher if you require a company structure; as a guideline these would be in the region of 1.500€ + VAT.*

### **TAXATION OF FURNISHED RENTAL INCOME**

Income tax\* and social taxes (now fixed at 17.2% since the 2018 French Finance Law) are applied to any rental income "profit", with the social taxes being applied even if you are NOT liable to pay any income tax.

*\*Income tax rates vary according to whether or not you are a French resident. For residents, the progressive rate of income tax is applied according to all other household income and number of household shares; for non-residents, there is a minimum rate of 20% income tax applied!*

Since January 2017, if the furnished rental turnover on short-term rentals exceeds 23,000€, there will also be social contributions into the French welfare system, according to level of "profit".

- On the REEL regime, "profit" is the net result of the P&L accounts after deduction of all costs and the depreciation allowance. If this is ZERO or if there is a fiscal deficit, NO income tax or social taxes will be payable.
- On the MICRO regime, "profit" is *fixed* according to whether or not there is a tourist certificate (*meublé de tourisme*). Without one, the profit is fixed at 50% of gross turnover; with one, the profit is fixed at the reduced rate of 29% of gross turnover.

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### OUR THOUGHTS

Non-residents need to consider whether the MICRO regime is feasible since the French have applied social taxes as this would now mean paying 37.2% of profit to the French authorities AND now they may have to contribute into the French welfare system also!

Where social contributions would be due, the auto-entrepreneur status would not work if you are able to obtain an A1 to cancel these contributions in France due to paying NI contributions abroad.

From the information we have to date, it is clear that obtaining the *meublé de tourisme* tourist classification certificate will greatly reduce liabilities for social contributions and we would therefore advise this be obtained as soon as possible by any landlords affected by these new rules.

### OTHER CHANGES FOR 2018

The Macron government has made several changes to the French Finance Law, voted in December 2017. In addition to the new information# updated in this information sheet (increase in turnover threshold for the MICRO regime and increase in social taxes on all rental income), the following information related to social organisations is also relevant :

- RSI (self-employed welfare authority) is due to be phased out over the next 2 years and only one welfare authority will exist, although no doubt with different departments according to type of income. Therefore there may no longer be the option of RSI or CPAM - it is due to become one central welfare authority. We are not sure what consequences this will have on the method of calculation of the social contributions but the government has reassured people there will be a smooth transition!

*# Please note that the information updated in this information sheet has been taken from the text of the Proposed French Finance Law 2018 as the official legal texts of the definitive law, voted on 31 December 2017, have not yet been published.*

*This information sheet is therefore subject to some changes should the definitive texts show any other details, or differ in any way from the proposed texts.*

*Thank you for your understanding in this respect!*

These are basic guidelines related to furnished rental activities, the different tax regimes available and some of the services we can offer with regards to registration, annual accounts and income tax returns. All information is correct at the time of drawing up this leaflet but is subject to modification according to changes in French law.

**(NB: For long-term furnished rental or furnished rental providing hotel-type services (*catered rental*), please see separate information leaflets).**