

# Brexit: list of questions/answers for individuals

The DGFIP provides you with answers on the tax consequences of the new relationship between the UK and the European Union.

## 1 - I hold British investment securities in my PEA, what happens after Brexit?

In order to be eligible for the Equity Savings Plan (PEA) and the PEA for small and medium-sized enterprises (PEA-SMEs), the investment securities must be issued by companies based in a Member State of the European Union (EU) or in another State taking part to the agreement regarding the European Economic Area (EEA) having entered into a tax treaty with France that includes an administrative assistance clause or agreement to fight against tax fraud or evasion (4° of Article L. 221-31 of the Monetary and Financial Code and 5 of Article L.221-32-2 of the same code).

This condition, which is at the head office of the company issuing securities, is constantly appreciated. As a result, investment securities issued by UK companies will no longer be eligible for PEA and PEA-SMEs. The holding of such investment securities in the PEA or the PEA-SME would therefore constitute a breach of the operating rules of the saving plan, resulting in its closure in principle (Article 1765 of the General Tax Code - CGI).

However, Order No. 2020-1595 of December 16, 2020 and its implementing decree of December 22, 2020 organize a 9-month adjustment period as from January 1, 2021 during which these investment securities remain eligible for the PEA and the PEA-SME in order to allow time for their regularization (transfer or withdrawal of these investment securities from the plan).

If I am resident in the United Kingdom, the tax conditions of my PEA in the event of withdrawal, redemption or closing remain unchanged. Thus, dividends received on the plan are not subject to the withholding tax provided for in Article 119 bis of CGI (GTC) at a rate of 12.8% except in the special case of dividends paid by unlisted French companies.

## 2 - How will the exit tax plan apply for transfers of residence to the UK (already transferred home or transfer of residence to come)?

The so-called exit tax provides that the transfer of tax residence outside France entails the immediate assessment on income tax and social levies of latent capital gains on social rights, securities, shares or rights, receivables originating in a price supplement clause and capital gains in deferral of taxation (Article 167 bis of the General Tax Code).

A deferment of payment is granted as of right, for departures prior to the 1st of January 2019, when the taxpayer transfers his tax residence outside France to a Member State of the European Union (EU) or to another State taking part to the agreement regarding the European Economic Area (EEA) having signed a convention with France for administrative assistance to fight against tax fraud or evasion and an agreement of mutual assistance for tax recovery.

In other cases, the deferment is granted at the express request of the taxpayer and with the provision of guarantees.

Furthermore, for departures as from the 1st January 2019, the benefit of the payment reprieve is as of right, without the constitution of guarantees, for departures to a Member State of the European Union or to any state or territory that has entered into an administrative assistance agreement with France to fight against tax fraud and evasion, as well as a mutual assistance agreement in the area of recovery.

With legal tools for collecting and fighting against tax evasion similar to those between EU member states, the UK operators will be exempt from appointing a tax representative, and the automatic suspension of

payment without guarantees continues to apply.

### **3 - Can I continue to donate to Uk non-profit organizations (NPOs) and continue to benefit from the donation tax reduction/property wealth tax reduction?**

Donations and payments to UK-based non-profit organizations (NPOs) will no longer be eligible for the donation tax reduction or property wealth tax reduction.

For the record, the only foreign bodies eligible are those headquartered in a Member State of the European Union (EU) or in another State taking part to the European Economic Area (EEA) agreement which has concluded an administrative assistance convention with France to fight against tax fraud and evasion.

### **4 - What will be the tax regime for real estate capital gains made by a private seller who became a resident of France after the sale of his former main residence in the United Kingdom?**

All real estate capital gains made by a resident in France are taken into account in income tax and social levies, whether the real estate property is located in France or in the United Kingdom. However, in this second case, under the Franco-British tax treaty of the 19th of June 2008, this taxpayer benefits from a tax credit equal to the British tax paid on the same gain and attributable to the corresponding French tax. In the event that the UK-sourced real estate gain is exempt, no tax credits would be granted in France under this Franco-British tax treaty.

However, the exemption for the transfer of main residence is likely to apply provided that the property constituted the main residence occupied by the transferor until it was put up for sale, remained unoccupied until the sale, and that the transfer takes place within a normal period (cf. 190 of the BOI-RFPI-PVI-10-40-10 for the assessment of this criterion).

### **5 - What will be the situation of the United Kingdom with regard to social levies on wealth income?**

Since January 1, 2021, British residents no longer benefit from European regulation (EC) no. 883/2004 of April 29, 2004 on the coordination of social security systems, as the United Kingdom is no longer subject to the provisions of this regulation.

They no longer fall within the scope of the exemptions from the generalized social contribution (CSG) and Social Debt Repayment Contribution (CRDS) on wealth income, as provided for in I ter of articles L. 136-6 and L. 136-7 of the Social Security Code.

However, in view of the agreements on the exit of the United Kingdom from the European Union signed on November 12, 2019 and December 30, 2020, this exemption is maintained for wealth income received as of January 1, 2021 for taxpayers who meet the following conditions:

- They are affiliated to the British social security system;
- They are nationals or legal residents of France, the United Kingdom or another Member State of the European Union;
- They are not dependent on a French compulsory social security scheme.

As a result, this income will not be subject to the CSG and CRDS but will remain liable to the solidarity levy at the rate of 7.5% provided for in article 235 ter of the CGI.

Taxpayers who have already wrongly paid taxes (e.g., social security contributions on capital gains from the sale of real estate located in France by individuals, which are paid in the month following the sale pursuant to Articles 244 bis A and L.136-7 of the Social Security Code) may obtain a refund within the time limit for

filing a claim under ordinary law.

## **6 - Will tax residents of the United Kingdom, like all tax residents of non-European Economic Area States, be obliged to appoint an accredited tax representative for the real estate sales they will make in France, in accordance with the provisions of Article 244 bis A of the General Tax Code?**

Under the plan provided by articles 244 bis A and 244 bis B of the GTC, the United Kingdom no longer belonging to the European Union or the European Economic Area, the transferor resident or having its headquarters in the United Kingdom will have to appoint a tax representative.

As a reminder, however, individuals with their tax residence in the United Kingdom are exempt from appointing an accredited representative when they sell a property located in France :

- whose sale price does not exceed 150,000 euros, or
- when they benefit from the achieved capital gain of a total tax exemption, in relation to both income tax and social levies, taking into account the length of time the property is held, in accordance with the provisions of I of Article 150 VC of the GTC and 2 of the VI of Article L. 136-7 of the Social Security Code (SSC), or
- when they benefit from the capital gains exemption provided in 1 of Article 244 bis A of GTC for the sale of the former main residence (see BOI, RFPI-PVINR-30-20, 170-225).

## **7 - I bought a vehicle in the UK that I want to register in France, are there any new terms and conditions following Brexit?**

With Brexit, customs formalities will have to be completed every time you trade with the UK. The new Vehicle Registration System (VRS) requires you to immediately register your vehicle or register it with a temporary number plate if your registration record is not complete.

Even if it is a second-hand vehicle, you will have to carry out customs procedures and pay duties and taxes on its value on the day of entry into the EU. This value can be the one mentioned on the invoice or the value that served as a transactional basis. If it is not a purchase, the tax will be based on the residual value that is generally indicated in the « L'ARGUS DE L'AUTOMOBILE ».

At the end of the formalities, customs will give you a 846 A certificate for the registration of your vehicle in a normal series.

You can find useful information on the Customs website, via the following links:

- <https://www.douane.gouv.fr/fiche/importation-par-un-particulier-dun-vehicule-achete-letranger-generalites>
- <https://www.douane.gouv.fr/fiche/achat-dun-vehicule-letranger-ou-dans-un-dom-com>

All procedures are detailed, including those to be carried out with other administrations.