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*Business & Tax News*

# ***Summer Edition 2021***



## A 'C'est la vie' headache

In broad terms, prior to us leaving the EU, if we sold a French property, we would suffer their version of capital gains tax (CGT) plus a Social Charge called Prélèvement Social (PS). We would still have needed to declare the disposal on our UK Tax Return and, potentially, incur a UK CGT liability. However, under the terms of the Tax Treaty between us and France, we would have received a tax credit for the French CGT we had already paid over against the UK tax bill. The French tax credit could be no more than the actual UK tax liability.

The good news is, in that respect, nothing has changed. **However, because we are no longer EU citizens, upon disposal of that property, we now have to pay two further Social Charges:**

Contribution Sociale Généralisée (CSG)  
Contribution au Remboursement de la Dette Sociale (CRDS)

**The three Social Charges (SC) combined make up to a 17.2% charge on the gain on top of the usual French capital gains tax liability. At present, the Tax Treaty does not allow us to recover these SC from the French authorities nor treat them as a credit against our UK CGT liability.**

### **For example:**

Let us assume the exchange rate is £1: €1.

Tom Pope is a UK 40% taxpayer. He bought a French property in July 2011 for €107,500 (including incidental costs of purchase). He has used the property as a holiday home.

Tom has carried out capital improvements on the property amounting to €15,000.

He sells the property in July 2021 for €200,000. He has not sold anything else during the UK tax year.





## Tom's French position as a result of the sale

After taking account of various tax reliefs available in France, his French CGT liability is €11,106.

On top of that the Social Charges would be €12,230.

Total French liability of €23,336.

### **Tom's UK position as a result of the sale**

UK CGT liability £12,300 less the French CGT of £11,106 = £1,194 UK tax to pay.

Pre-Brexit, Tom's overall French and UK liability would have been £17,633 (which includes the PS Social Charge).

**Post-Brexit Tom's overall French and UK liability rises to £24,530.**

Added to this, as we are no longer part of the EU, **we have to appoint a French Tax representative to deal with the French tax authorities. The typical charges are from 0.7% to 1% of the sale price.** Sales under €150,000 (or at a loss) are exempt.

#### **Tip**

When you dispose of an overseas asset it is always important to check the tax position both here in the UK and the other country to ensure that you have been tax compliant in both jurisdictions. We are happy to review the UK tax position for you and apply the terms of the Tax Treaty between the UK and the relevant overseas country.





## Crypto mania – the tax reality

In a recent survey, 51% of investors aged between 18 and 37 traded or owned cryptocurrencies, which is double the number of those investing in the stock market. There are thousands of different kinds of digital cryptocurrencies with interesting names like Bitcoin, Ethereum, Polkadot and Litecoin to name but a few. It has its own language with terms like miners/mining, private and public keys, blockchain, hot and cold wallets, airdrops, exchanges and crypto trading. Despite the wild volatility of the crypto marketplace, the risk of fraud, theft and hacking, it is fair to say that the world in general has gone crypto mad. But be careful, there are tax consequences to all of this. What are they?

- **HMRC do not view cryptocurrency (CC) as 'currency' or 'money'** but, in effect, as a virtual asset which can be turned into money.
- Activities carried out by either an individual or a business can consist of buying and selling CC or exchanging one digital currency for another, such as Bitcoins for Polkadot. Some businesses allow you to purchase goods and services from them using this virtual 'money'. A crypto 'trader' may gift their CC to somebody other than their spouse or civil partner. In the vast majority of these situations, **if the CC has increased in value from the date you acquired the asset to the date you carried out any of these actions, the 'gain' may be liable to capital gains tax.** Depending upon your circumstances that will be a tax rate of either 10% or 20%, if you are an individual, or 19% if you are conducting this crypto activity through a company.

### **For example:**

Danielle acquires 500 Ethereum coins for £5,000. Sometime later she is able to purchase a new car using all those virtual coins. The agreed value of the vehicle at the time, in sterling, would have been £35,000. Danielle is a higher rate taxpayer and has already used up her capital gains tax annual exemption this year following the sale of a property. Danielle will be liable to capital gains tax (CGT) as follows:

Deemed disposal of 500 Ethereum coins – Proceeds £35,000 Less

Acquisition cost (£5,000)

Chargeable Gain £30,000 at 20% = CGT to pay £6,000.

- **HMRC set a high bar for any income from crypto activity to be deemed to be trading profit for tax purposes.** A crypto 'trader' may have to demonstrate a significant level of activity, organisation, commerciality and a sophisticated understanding of the CC market. If treated as 'trading' then any losses can be utilised in a more flexible way than the alternative tax options.
- **Some crypto 'traders' may be actively engaged in 'mining'.** This can involve using very powerful computer hardware and significant levels of electricity to solve a complex puzzle. Once solved this brings more of that particular CC on to the marketplace. If the 'miner' is successful they may receive 'free' CC and the right to a slice of the fees generated from transactions using these newly created CC. **The market value of the 'free' CC and the fees will normally be treated by HMRC as 'miscellaneous' income which will be taxed at the individual's highest rate of tax or if a company at 19%.** If that is the case, the expenses, such as the computer hardware and the electricity costs, may not be allowed as deduction against that income.



- **Free' CC is sometimes dished out as a marketing ploy or because a particular investor holds a number of that particular currency. The market value of these 'freebies' can also be treated as taxable income.**

Exchanges are online platforms where the vast majority of crypto trading activity is carried out.

**HMRC are now receiving information from those platforms and opening up enquiries** where people or businesses have failed to declare their income/gains.

### Tip

**If you are involved in crypto trading it is important to keep proper records** and to disclose any income/gains arising from that activity and, where applicable, correctly claim any losses which may occur. If you need any help or advice, please do not hesitate to contact us.

## Ecommerce VAT Shopping

It is fair to say that the number of UK online traders selling goods to the EU consumers has significantly increased during the course of the pandemic. With the UK leaving the EU in January, this has created some VAT challenges for these traders.

**To make matters worse, new EU ecommerce VAT rules are coming into play from 1st July 2021.**

**This will impact on traders based in England, Scotland and Wales (GB) but also for Northern Ireland (NI) traders due to the NI Protocol.**

From 1st July all commercial goods imported into the EU from GB will be subject to VAT irrespective of the value. The options for the GB trader are to:

- **Get the EU consumer to pay the VAT** and any clearance fees prior to them getting hold of the goods. This could be seen as an additional barrier to a sale.
- **The trader registers for VAT in each EU country** where the goods are being sent. Deal with the import VAT themselves and charge local VAT out to the consumer. If there is more than one country involved it **could be very costly and time consuming to be VAT compliant** in each EU member state.
- **If the value of the goods does not exceed €150/£135, you could register now on one of the Imported One Stop Shop (IOSS) portals.** Each EU country has its own IOSS and you can choose which one you want to register on. Some countries insist on you using a local intermediary (e.g., agent or accountant) to register you. If you go for the IOSS option, through your online website:
  - You would charge VAT at the point of sale.
  - **The VAT rate would be the one in operation where the EU consumer is based.**
  - You would complete one monthly IOSS VAT return.
  - You would pay over the VAT collected to the EU member state you signed up to.
- **If you trade through an online marketplace (OMP) then the liability to account for the VAT and complete the IOSS process will rest with the OMP** and not you. In respect of the sale of goods, **NI online traders are deemed to be part of the EU VAT regime.** They cannot register for IOSS but can potentially sign up to the EU One Stop Shop (OSS) for dealing with the VAT issues regarding EU sales. In NI's case:
  - **If the goods sold to an EU country total no more than €10,000 then you apply the UK VAT rate on sale.**
  - In excess of €10,000 you apply the VAT rate, on sale, applicable to where the consumer is based.



## Tip

We have access to VAT specialists who can help you look at the options which best suit your online business

## Pensions – the tax opportunities and pitfalls

Pensions are one obvious option for saving for retirement and, from a pure investment perspective, it is wise to look at this in conjunction with a qualified IFA. But putting the 'investment' aspect to one side what are the potential opportunities and pitfalls one should keep an eye on year by year?

- The amount you and your employer can put into a pension scheme is known as the pension allowance (PA). The maximum annual PA is usually £40,000. **If you had a pension scheme in place in the previous three tax years, you can bring forward any unused PA into the current tax year and potentially make a pension contribution of up to £160,000!!** If you personally make the contribution the amount you pay into the pension scheme is restricted to the lower of your earnings or the available PA. **If the employer makes the contribution, it is simply restricted to the available PA.**
- **You can still make an annual pension contribution of up to £2,880 even if you have no earned income.** The Government will top up the pension pot by a further 25% of the contribution you have made, taking the pension provision up to £3600. **Grandparents or parents could set up a pension scheme for the grandkids/kids to provide for their long-term future** whilst also, potentially, mitigating their own inheritance tax problem
- further on down the line.

- **Where your total income for a tax year is between £100,000 and £125,140, by personally making a pension contribution you could obtain tax relief on it of 61% in Scotland (60% in the rest of the UK),** whilst enhancing your pension pot.
- **If you are liable to pay the high-income child benefit charge** because your income for the year is in excess of £50,000, **by personally making a pension contribution you may be able to mitigate or even wipe out, that charge.**
- Assuming it is not the 25% capital tax free lump sum, **if you flexibly access your money purchase pension scheme and you want to continue to pay into a pension pot, the available annual PA going forward reduces from £40,000 down to £4,000.**
- If your total gross income in a tax year exceeds £240,000, the amount you can pay into a pension scheme could be restricted to as low as £4,000. Any excess contribution above that limit could attract a pension tax charge at your highest tax rate.  
If the value of your pensions are in excess of the lifetime allowance limit of £1,073,100 (2021/22 tax), at the time you access it, then you could find yourself being taxed an additional 25% on any pension income or 55% on any capital element above that limit.

## Tip

**We would recommend a pension allowance review on an annual basis,** not only to take into account the opportunities and pitfalls already mentioned, but to ensure the timing is right and that the appropriate person, be it the individual or the employer, makes the contribution.  
**We would be happy to carry out such a review for you, where appropriate using a qualified IFA.**



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