

An introduction to French Leaseback

Leaseback property has been around for two decades in France and was introduced by the French government to increase the quantity of quality holiday accommodation available in areas capable of attracting more tourists.

The properties are usually located in a "Residence de Tourisme" (Tourist Residence) or "Residence avec Services" (Residence with Services) which cater for short term lets and provide a variety of services usually to include reception, breakfast (by prior arrangement), laundry and linen services, swimming pool, Jacuzzi, sauna, steam room.

The leaseback scheme enables you to purchase freehold a property which you then earn a guaranteed rental income from. When leaseback schemes are sold, there is a pre-selected property management company to whom you "leaseback" your property for a period which usually ranges between 9 and 12 years.

During the period you leaseback your property to the property management company, you have the peace of mind of owning property and benefiting from a guaranteed income, yet none of the hassle related to letting out and maintaining the property! This is one of the reasons why the leaseback scheme is so popular and that there is not enough supply to meet demand.

Depending on the development you can usually use your property for a certain number of weeks per year for holidays although this differs from development to development. Some developments will offer owners discounted use (usually ranging between 10 –25%) instead of free weeks whereas others (usually those located in cities offering a higher yield) may not offer any use either free of charge or at a discount.

The guaranteed rental income tends to range between 2.5% and 6% per annum depending on the property, whether you will be taking your holidays in it and where it is located. Different property management firms offer different rental incomes, but in general the less you use your property the higher your yield will be.

What's more, the French government agrees to offset the payable VAT (TVA) on the purchase price against that

charged to the short let customers of the rental management company. This means that you will receive back a sum equivalent to the VAT on the property at the rate of 19.6 % on new build property (renovated or refurbished properties do not normally qualify for a 19.6% VAT rebate but some still do have a VAT rebate element). This normally takes some months to come through, but some developers will advance the VAT for the government and reclaim it back directly.

Leaseback is extremely popular with French investors who account for the majority of all purchases. French residents benefit from a range of tax advantages beyond the VAT rebate hence the reason why many of them invest in these schemes. One final point that has been raised in the past, is that leaseback is not timeshare. Whilst owners are leasing back their property and may only have use of it at specified times of the year, the owner is the Freeholder of the property at all times.

The Properties

Properties will more commonly be apartments or townhouses and will range from studio apartments to two bedrooms. Larger properties tend to be rarer and when they are available sell very quickly.

The developments are usually sold "off-plan" which is very frequent in the French property market. Potential purchasers will be able to consult detailed plans and summary building specifications prior to purchase.

When purchasing leaseback property and deciding on the size of the property to purchase it is important to take into consideration where the property is located. Studios rent very well in large cities such as Paris, Lyon and Marseille, but there is not as much demand for these size properties in rural areas, say for example in the heart of Burgundy.

Some investors prefer to purchase several small studio apartments in central locations with good transport links as to diversify their portfolio whilst others will prefer a three bedroom apartment in an upcoming ski resort.



Depending on the French fiscal status of the development (ZRR or LMnP) the properties will either be furnished by the property management company (who in this case carry the price of the furniture), or, there will be a set furniture package which is purchased by the owner. In the event that the cost of the furniture is to be paid for by the owner this is usually included in the purchase price but it is advisable to seek confirmation.

Purchasers will not have a choice of the finish of the properties (ie. Paint colour, colour of tiles etc) as the properties are generally equipped and decorated to the same finish throughout the residence.

The properties also come equipped with fitted kitchens which depending on the development will include items such as hobs, extractor fans, sinks, cupboards, microwave, oven, dishwasher...

One aspect of French apartment blocks which differs to apartments in the UK is that they are not leasehold. In fact, in France you have what is known as a copropriété (co-ownership) and all the co-owners own a certain percentage of the communal areas, for example Mr Bloggs in apartment 1 may own 35/10000 of the communal areas.

The Reservation Process

Once you have chosen a property you wish to purchase you will have to go through the reservation process. Because the French investors are currently investing heavily, there is a lot of pressure on foreign investors to go through the process at a similar speed.

Generally, if you wish to reserve you will often be advised to make a first and second choice as availability does change very quickly so your choices may not always be available.

Generally a 5% deposit is necessary to reserve a property. This does vary from development to development and French law restricts how much can be paid in terms of reservation deposit according to when the development is to be delivered.

The deposit is to be transferred to the French Notaries escrow account to secure the reservation whilst contracts are being arranged. Proof of transfer must be faxed to within three working days to secure the property. You should start looking for a suitable mortgage at this stage.

For information, French purchasers are normally required to pay the deposit and return the contracts within this delay. More lenience has been given to foreign investors so that they can seek legal advice regarding the contracts. Nevertheless, 3 weeks is the average delay practised by the developers for foreign investors to return their contracts. Sometimes they may insist on this delay being shorter particularly if the development is completely sold out and it is the last property available.

Contracts for the majority of the developments are in French. Occasionally contracts are translated although this tends to be rare as the developments sell so quickly on the French market. Once the reservation has been made, you will be issued with the completed contracts which must be signed and sent back to us as soon as possible as reservations are not complete without the signed contracts.

It is highly recommended to instruct a qualified solicitor to advise on the contracts and also on such matters as French inheritance law and purchase structure.

Once the signed contracts have been received they are forwarded to the other parties (Developer, Property Management Company...) who will also sign the contracts. You will then receive the signed contracts by recorded post.

You may or may not receive the countersigned contracts back before being notified of your seven day cooling off period. In most instances, you are notified of this at the same time as receiving the countersigned contracts back. In some rarer cases, you may just receive a registered letter advising you of this.

The first presentation of this letter denotes the first day of your seven day cooling off period, meaning that if you chose not to proceed with your purchase your deposit would be reimbursed in full (this can take up to three months to come through, although it does normally come through quicker).

Once the countersigned contracts have been received you should complete your mortgage application straightaway.

You must receive your mortgage offer before you can complete on the property. If you are unable to obtain finance your deposit is fully refundable providing that the conditions specified in the contract have been fulfilled.

Once you have obtained your mortgage offer a copy is submitted to the notary who is then able to prepare the final documents which will allow you to close on your purchase.

The notary will address to you a copy of the title deeds (projet d'acte) as well as other necessary paperwork. Completion on the property is possible at a public notary in the UK or Ireland in which case you will be provided with a proxy (procuration). The proxy, once notarised and sent back to the French notary, gives power of attorney to the French notaires clerk to sign the final Acte Authentique in your absence.

Once this is done you are then the owner of the property.

We strongly advise that you take independent legal advice before committing yourself to purchasing a French leaseback property. We can recommend you to bilingual solicitors who will give you this advice and also assist with French succession law related matters. Further details and a scheme giving a step by step guide to the purchase process can be found at the end of this document.

French Mortgages and Payment

Many investors find it financially attractive to purchase their property using a French mortgage.

French banks offer a range of mortgage products some of which are suitable to foreign investors and interest rates are much lower than those in the UK.

However, the downside to French mortgages is that they are slow and difficult to obtain and it is highly recommended that you use a French broker who has good contacts with the lenders and can sometimes enable you to obtain a better deal.

Some people can experience delays of over four months when they go direct to the lender, where a good mortgage broker can get a decision and offer in a few weeks! Rates currently available include:

- Variable rates (up to 20 year term) fixed for 21 to 25 year terms
- Capped rates, with agreed payment rate variable up to a certain level
- Part repayment / part interest only also available

French lenders take into account different criteria when calculating if they will lend and advice should be sought regarding your borrowing power.

Lenders will normally offer between 70 –80% LTV for leaseback properties, however this depends on your own financial situation and they may ask you for a larger deposit.

When purchasing with a French mortgage it is necessary to open a French bank account to deposit your rental income and for your mortgage repayments direct debit.

We can help arrange all of the above –please contact us for details.

Because new build French property is paid for by a schedule of payments during the build process, it is assumed that the lender will unblock all of the funds straightaway.

This example shows how the mortgage would be drawn on a typical development payment schedule (assumed 70% Loan to value):

- 5% reservation deposit (comes from purchasers funds)
- 20% Upon signing the Acte Authentique (comes from purchasers funds)
- 10% When foundations are complete (5% from purchaser funds, 5% drawn from mortgage) 25% When 1st floor is complete (drawn from mortgage) 10% When the roof goes on (drawn from mortgage)
- 13.6% When the windows go in (drawn from mortgage) 6.4% When interior walls are complete (drawn from mortgage)
- 5% When building is complete (drawn from mortgage)
- 5% On delivery (drawn from mortgage)

Interest would be paid on the amount drawn from the mortgage.

Purchase Costs

When purchasing leaseback property there are a number of costs that are not included in the purchase price of the property. These commonly include:

- Notary fees: purchasers should allow approx 3.5% of the VAT inclusive price for new build and between 7 –12% for resale



- Mortgage registration fees: these are applicable when purchasing with a French mortgage –purchasers should allow approx 2% of the VAT inclusive price
- Solicitor fees: contrary to popular belief, the French notary does NOT work on behalf of the purchaser and is independent acting more as a paperwork administrator than anything else. It is highly advisable for purchasers to instruct a bilingual solicitor qualified in French law to act on their behalf. Prices vary although are commonly between £600 - £2000 depending on the level of service.
- Proxy fees: if the purchaser closes on the purchase at a public notary in the UK, they will need to pay the UK based notary a fee for them to notarise the document. This varies from region to region but generally comes in at about £100 per document.
- Accountancy fees: to claim back the VAT an accountant will normally charge between 200 –300 Euros.

The VAT Rebate

When you purchase a new build leaseback property, one of the main advantages is that you get the VAT back on the purchase price (currently the VAT is at a rate of 19.6%).

This will either be advanced by the developer in which case they will normally pay the last few staged payments, or more commonly, this purchasers pay the full VAT inclusive price and then claim it back from the French authorities.

Typically, each development where the VAT is to be claimed back will chosen an accountancy firm to look after this aspect of the purchase. It is worth stating at this point that is very important to use an accountancy firm as this is a complex process and if the procedures are not respected then you will not qualify for the VAT rebate.

The main reason in giving the VAT rebate is that VAT is earned by the French authorities during the period that the property is let out. This is on an understanding that the property will be let out to tourists for a period of 20 years. If the lease contract was terminated or the property sold before this time, then a part of the VAT would need to be re-paid the French authorities pro-rata. This works out at being 1/20th per year.

On refurbished property or renovated properties, the 19.6% VAT rebate is not normally applicable and the VAT that will be reimbursed, if any, varies according to the development. This should be clarified before purchasing.

Some renovated properties will require such renovation that it will be considered as a “new build” and will qualify for the 19.6% VAT rebate. It is important to establish this before purchasing.

The Lease Contract & Property Management Firm

The property management company is chosen before the development is made available for sale and the properties will then be sold on the condition of signing the commercial lease contract.

The lease contract is prepared in advance and will be made available to purchasers at the same time as the reservation contracts for signing.

The lease contract will contain such things as what the property is, how long the lease is to run and how much rental income they will pay you during the course of the lease period.

It will also set out any terms and conditions relating to the owners use of the property and also what charges the owner will be liable to pay if any.

In the majority of cases, the property management company will always pay for the general maintenance of the property and its furniture. This includes replacing any broken or worn out furniture with the same equivalent. The property management also pay the bills including electricity, water, gas etc.

Occasionally, there have been examples of lease contracts where the owner of the property is left to foot the bill for replacing furniture which is obviously something that must be avoided. Unless you really like the property and wish to acquire it at all costs, we generally advise not to get involved in such lease agreements.

Owners are also liable to pay for major repairs such as structural work, but it is worth pointing out that new properties do come with a 10 year guarantee which covers such work. Owner liability should be checked in the lease contract.



During the course of the lease contract, the property management company will let the property to tourists and people wishing to stay in the area and will look after the maintenance of the property.

Owners do not have to worry about finding tenants, handling change-overs or ensuring that the property is well maintained.

Rental Income

One of the major attractions to investors is the rental income which is guaranteed by the property management company. The rental income is nearly always calculated on the ex VAT price of the property, excluding notary and other fees.

So, if a property was priced at 100 000 Euros INC VAT, the ex VAT price of the property would be 83 612 Euros. If the property was being sold with a 5% yield, the annual rental income would be 4180.60 Euros.

Recently, there have been several cases of properties being advertised with much higher net yields than the property is really offering. Agents may do this to draw in more customers who have been attracted to the high looking yield initially. This is not a very honest way of dealing and if you see the same property but with a higher yield you should ask what the yield is based on.

For example, if there is 4180.60 Euros of rental income and the total ex VAT price of the property is 83 612 Euros this will give a yield of 5%. However, if the ex VAT price of the property includes 10 000 Euros for a parking space some agents will calculate the yield on the price of 73 612 which makes the yield look like it is 5.7%! This obviously looks more attractive but it is not based on the correct figures so you should ask what the rental income is calculated using as to avoid nasty surprises!

This price is net of French VAT at 5.5% but gross of other costs including tax fonciere, accountancy fees, income tax and so forth.

In fact, the income that you will receive is subject to French VAT at 5.5% and you will require an accountant to prepare your quarterly VAT declarations for you. Accountants will usually charge in the region of 200 –300 € per year for this service.

The rental income is normally paid to owners quarterly in arrears although this does differ from development to development and should be checked prior to reserving. When the construction of the development is completed there is normally a short period consisting of a couple of months where no rental income is earned. This grace period allows the property management firm to set up inside the development and start advertising the properties to let. Where this is applicable it is written into the lease contract.

The rental income will also be index linked, often using the INSEE Cost of Construction Index as a reference.

How the rental income is indexed will vary from development to development but it is more often reviewed on a yearly to three yearly basis on the anniversary of the lease contract.

The review will either take into account the full amount of the fluctuation of the index or, will be capped at a certain percentage of the fluctuation (75% cap is becoming common).

Full details of the INSEE Cost of Construction index as well as archives of how the index has performed can be found here:

http://www.insee.fr/en/indicateur/indic_constr/indic_constr.asp

Rental Income & Personal Use

Some developments will allow for some personal use for owners during the lease period. This is likely to be either some "free" weeks use in exchange for a lesser yield, or, it can be in the form of a discount on public prices.

When the personal occupation is in the form of some "free" weeks use, these weeks are normally to be taken in specified periods which are often set out in the lease contract.

It is important that owners understand when they can use the property and what the restrictions are, especially if they have children and can only travel in school holidays.

When there is a discount available this will normally range between 10 –25% depending on the management company and the season. Occasionally, some management companies will also offer owners a discount on other properties that they manage.



Sometimes there will be an administration fee charged to owners when they reserve the property for their free weeks use. This is normally less than 75€.

Any reference to personal occupation, whether it be free weeks or a discount, should be included in the lease contract or an annex to the lease contract.

The End of the Lease Contract

At the end of the lease contract it is the aim of many owners to renew for at least the same period of time as to be in a position to keep the full VAT refund and to avoid capital gains tax liability (can be applicable if the property is sold before 15 years).

Some owners may wish to renegotiate the terms of the lease to maybe include more personal occupation etc. in which case it is generally advisable to begin negotiations at least 6 months to a year before the actual lease contract expires.

Similarly, those who do not wish to renew the lease contract should serve the appropriate notice as set out in the lease contract. In the case that this is not stated in the contract the minimum is normally six months although a years notice is recommended.

French commercial leases are governed by French Commercial Law which is a complex matter and protects the tenant.

The law actually states that the head tenant can claim an indemnity if they are evicted from the property at the end of the lease contract. The law actually permits for the tenant to have a right to renew the property when the lease comes to its term.

Whilst this is more applicable for high street shops and it is not the intention of the property management company at the start of the lease it is a possibility and should be taken into consideration.

Some management companies will provide owners with a letter stating that they will not ask for these fees as to reassure the owner.

In the case where eviction indemnity was to be paid should the owner not wish to renew the lease, French agents expect or have experienced eviction fees of approximately 6 months to 1 years worth of rental income earned by the owner of the property. This is a relatively small amount when capital appreciation and the VAT rebate is taken into consideration.

In any case, the owner is the freeholder of the property at all times, and if after the lease contract is terminated they can do as they wish with the property.

If the owner of the property wished to sell it during the lease period this can be done and the new owner would have to honour the remainder of the lease.

If the property was being sold after the lease period then it can be sold as a normal property through a local estate agent.

Costs Involved during the Lease Period

The following is an outline of the costs involved during the lease period. It should be noted that they may vary from development to development and do not include income tax liabilities.

- **Taxe Fonciere:** Land tax paid in France by owners. Averaging a cost of between 300 – 500 € per year for a studio or one bedroom apartment.
- **Accountant Fees:** to prepare VAT declarations and keep accounts averaging a cost of between 200 – 400€ per year depending on the firm.
- **Frais de Syndic:** these cover some of the insurance liabilities which are paid by property owners and costs vary from development to development.
- **Quote Part de frais des co-propriétés:** Some property management firm will only pay part of the co-ownership charges and leave a part for the owner to pay. These are usually between 15 – 20 € per metre squared each year. Where this is applicable it is set out in the lease contract.

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