

TAX FOCUS

French Real Estate Holding Companies (SCI): Key Pitfalls for Non Resident Investors

Introduction

The *société civile immobilière* (SCI) is a French legal structure commonly used to hold and manage real estate assets. Its apparent flexibility — adaptable bylaws, facilitated transfer of shares, simplified formalities — makes it particularly attractive to foreign investors seeking to acquire property in France. Yet this apparent simplicity often conceals numerous legal, tax and estate planning complexities that non resident investors, and sometimes their advisers, tend to overlook. The purpose of this article is to provide a concise overview of the main pitfalls faced by investors who choose to structure their French property investments through an SCI.

1. Furnished lettings: a major source of tax risk

Under French law, an SCI is ordinarily subject to personal income tax (*impôt sur le revenu* or IR) at the level of its partners, under a so called “tax transparency” regime. This favourable regime is available only where the SCI engages solely in civil (i.e. non-commercial) activities, i.e. primarily the letting of unfurnished property or the mere holding of real estate.

However, once a property held through an SCI is let on a furnished basis — even occasionally or seasonally, for example via a short term rental platform such as Airbnb — the activity becomes commercial for French tax purposes. The SCI then automatically switches to the corporate income tax (*impôt sur les sociétés* or IS) regime. This change of regime is irreversible and fundamentally alters the SCI’s tax status, subjecting it to the full set of obligations applicable to commercial companies.

While the SCI may then depreciate its real estate assets, it can no longer allow partners to occupy the property free of charge without this constituting an *acte anormal de gestion* (an abnormal management act). Partners who use the property must therefore either pay a market rent to their own company or impute a notional market rent for corporate tax purposes.

Particular caution is therefore required before offering a property for short term or seasonal rental, even on an exceptional or very limited basis.

2. Gift and inheritance: valuation challenges

The SCI is often presented as a convenient estate planning vehicle. However, where no accounting records are kept, the transfer of SCI shares — whether by gift or upon death — can prove hazardous.



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The value of the shares must accurately reflect the net asset value of the company (i.e., the value of the real property minus the outstanding liabilities). In the absence of proper accounts or financial statements, the French tax authorities are entitled to conduct their own valuation — often at a higher level — which mechanically increases the taxable base and the amount of gift or inheritance tax due. This risk is particularly acute where partners' current accounts (*comptes courants d'associés*) exist but have never been properly documented. Such advances to the SCI are common in practice, but without appropriate documentation (loan agreement, bank statements, etc.), the tax authorities may reclassify them as disguised gifts or hidden profit distributions, with all the resulting tax consequences.

It should also be recalled that, in the context of the estate of a non resident partner, the receivable owed by the SCI to the deceased (*de cuius*) will, in most cases, constitute an asset subject to inheritance tax in France.

The rigorous maintenance of the SCI's accounts and proper documentation of partners' current accounts are therefore an absolute necessity to secure any transfer operation.

Practical recommendations

Although an SCI is a flexible structure, it nonetheless remains a fully-fledged legal entity with interests distinct from those of its partners. Its management must therefore be conducted with the same rigour as that of a conventional business. In this respect, several fundamental principles apply.

The SCI should maintain its **own dedicated bank account**, separate from the partners' personal finances, to ensure the traceability of all cash flows and avoid any commingling that could give rise to adverse tax consequences. It should also keep **accounting records, even of a simplified nature**, enabling an annual statement of assets and liabilities to be prepared and the value of the shares to be justified at any time.

The **free provision** (i.e. rent-free use) of an SCI owned property to a partner or a member of their family is legally permissible, but must be formally recorded through an appropriate corporate act (such as a shareholders' resolution or written agreement). Finally, **partners' current accounts** should always be governed by a properly documented loan agreement, with evidence of contributions and repayments.

Ultimately, investing in France through an SCI can offer real advantages, provided that the day to day management of the structure is not neglected. Investors should seek advice from a professional with expertise both in French law and in the tax system of the investor's country of residence, in order to anticipate interactions between the two systems and secure the long term viability of the investment.



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