The aim of this circular is to inform staff members of a change in practice in the Canton of Geneva regarding estate duties for international civil servants or members of their families, and a certain easing of conditions provided for in the amendment to the Federal Act on the purchase of real property by persons domiciled abroad (Lex Friedrich) of 16 December 1983.

Reproduced below is the text of a note verbale addressed by the Permanent Mission of Switzerland to the international organizations at Geneva.

"The estate of all international civil servants, whether or not enjoying diplomatic privileges, shall, in the event of their death henceforth be exempt from estate duties in the Canton of Geneva. This exemption extends to family members of international civil servants who are part of their household.

"The exemption does not, however, concern international civil servants or members of their family of Swiss nationality, or former international civil servants (retirees or others), whatever their nationality.

"This exemption does not apply to immovable property situated in the Canton, which, as in the past, remains subject to payment of estate duties.

"The new practice cannot affect previous tax assessments which have taken effect.

"It should also be noted that international civil servants and members of their family who participate, as heirs, legatees or recipients of life insurance or staff provident benefits or gifts as a result of the death of a third party not covered by the exemption shall not be exonerated from payment of any estate duties to which they might be liable.

"The estate of members of diplomatic missions to the United Nations Office and the other international organizations, Permanent Missions to the Conference on Disarmament and GATT and Special Missions in Geneva or close relatives who are part of their household shall be treated by analogy."

An information note on the easing of conditions regarding the purchase of real property as mentioned above in the first paragraph is attached, as received from the Permanent Mission of Switzerland to the International Organizations in Geneva.

Paul Rolian
Director
Personnel Division
INFORMATION NOTE

PURCHASE OF REAL PROPERTY BY INTERNATIONAL STAFF MEMBERS – CANTONS OF GENEVA AND VAUD – EASING OF CONDITIONS BY THE HOST COUNTRY FOR THE CANTON OF GENEVA

1. LEGISLATION

- Federal Act on the purchase of real property by persons domiciled abroad, dated 16 December 1983 (Lex Friedrich) (RS 211.412.41), entered into force 1 January 1985;

- Federal Ordinance on the purchase of real property by persons domiciled abroad, dated 1 October 1984, entered into force on 1 January 1985 (OAIE) (RS 211.412.411);


2. PRINCIPLE

Article 2 of the Federal Act provides that the purchase of real property by persons domiciled abroad, i.e. physical persons who are not entitled to take up residence in Switzerland, is subject to authorization by the competent cantonal authority. The Ordinance implementing this Act, which contains important stipulations on the issuance of such authorizations, states that "physical persons not entitled to take up residence in Switzerland" should be taken to mean persons not in possession of a residence permit (permis C).
3. DEROGATIONS

31. Treating the identity card (carte de légitimation) issued by the Federal Department of Foreign Affairs in the same way as a residence permit (permis C)

International staff members in possession of an identity card (carte de légitimation) do not require such authorization if they can provide proof of continuous residence in Switzerland for a period of 10 years, in which case they are treated in the same way as holders of residence permits (permis C). This period is reduced from 10 to 5 years for international civil servants who are nationals of the following countries: Belgium, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Monaco, the Netherlands, Norway, Spain, Sweden, United Kingdom.

311. Simplification of the procedure - Canton of Geneva (new)

Such equivalent treatment will henceforth be documented in the following way:
- In the case of the purchase of a right of ownership or other right registered in the Land Registry, that authority will itself carry out the verification prior to registration;
- In the case of the purchase of shares, proof of equivalent treatment must be requested from the Département de l'Économie publique of the Republic and Canton of Geneva, which communicates its decision by letter, without charging any fee.

In both cases, the following documents must be produced:
- A certificate from the Swiss Mission providing all necessary information concerning the identity card;
- A certificate from the Cantonal Population Office indicating the date from which the person concerned has resided continuously in Switzerland;
- A copy of the identity card;
- A certificate from the employer also indicating the date from which the applicant has resided continuously in Geneva and certifying that he is the holder of a permanent or long-term contract, with an indication of the date of expiry.
The position is, however, reserved in the event of doubt or where further instructions from the Département de l'Économie publique prove to be necessary.

In these cases, the usual procedure involving a formal application for a derogation is applicable.

32. Treatment of spouses holding a subordinated permis B - Procedure - Canton of Geneva (new)

When a couple wishes to purchase real property in co-ownership and one of the spouses is an international official treated as a permis C holder, whereas the other, the length of whose residence in Switzerland would also entitle him or her to such treatment, is the holder of a subordinated permis B (permit replacing the identity card for the exercise of a profit-making activity outside an international organization), both spouses will be treated as permis C holders in accordance with the above-mentioned procedure.

4. PURCHASE SUBJECT TO AUTHORIZATION

41. Principle

For international staff members resident in Switzerland for a period of less than 5 or 10 years, as the case may be, purchase of real property is subject to authorization. The following conditions must be met:

42. Conditions

- Continuous residence by the purchaser for a period of not less than one year from the date of entry into Switzerland (it will be noted that residence of one year in the cantons of Geneva and Vaud for a purchase in those cantons is no longer required, but the purchaser must be domiciled in the canton in question at the time the application is made);

- Long-term residence by the purchaser in the locality where the property in question is situated, authorized under the regime of the identity card (this condition disqualifies a priori any staff member not holding a permanent contract or a contract of sufficiently long duration);
The property must constitute the purchaser's principal residence and conform to certain restrictions as to size (maximum of 1,000 square metres of land and 200 square metres of net living area). In the case of a building plot, construction must be completed within a reasonable period and in accordance with the plans;

- The mortgage (interest + payments) must not exceed 30 per cent of the purchaser's gross income (Geneva);
- The purchaser must be able to make a 20 per cent down payment (Geneva).

43. Requirements

The purchase is also subject to the following requirements, which are laid down by federal law and are applicable to all purchases, regardless of the location of the property:

- The property must be used for the purpose for which the purchase was authorized and further authorization must be obtained for any change of use;

- The property must be sold within two years when the purchaser ceases to occupy it. The property may not be disposed of within a period of less than five years from the date of purchase.

431. Extension of the period of absence to four years and possibility of letting property - Canton of Geneva (new)

If an international staff member who purchases real property under Lex Friedrich has to leave Switzerland for a maximum period of four years (rather than two), he may apply for an authorization to keep his property and let it during that period.

The Département de l'Économie publique in Geneva will decide on a case-by-case basis on applications for derogations in the light of the foreseeable length of the period to be spent abroad, which may, as stated above, be up to four years. It will also decide on the possibility of letting the property during this period. In support of his application, the person concerned must establish that his absence is temporary and that it is necessary for professional reasons.
Any person who acquires a permis C or Swiss nationality or an international staff member who has resided in Switzerland long enough to be treated as a permis C holder may apply for the requirements to which he was subject at the time of the purchase of real property under Lex Friedrich to be waived. The application should be made to the Département de l'Économie publique, which will henceforth waive the requirements by letter, without charging a fee.

With his application, the person concerned must produce a copy of his permis C or Swiss passport or, if he is an international staff member treated as a permis C holder, the following documents:

- A certificate from the Swiss Mission providing all necessary information on the identity card;
- A certificate from the Cantonal Population Office indicating the date from which the person concerned has resided continuously in Switzerland;
- A certificate from the employer also indicating the date from which the applicant has resided continuously in Geneva and certifying that he is the holder of a permanent or long-term contract, with an indication of the date of expiry;
- A photocopy of the identity card;
- In all cases, it is necessary to provide either an extract from the Land Registry relating to the right of ownership and the particulars thereof or a waiver application for the Land Registry duly filed by a notary.

44. Procedure

Applications for authorizations must be addressed:

- To the Département de l'Économie publique for the Canton of Geneva;
- To Commission Foncière II, the secretariat of which is the Chambre Vaudoise d'Agriculture, for the Canton of Vaud.
Application forms are available. International staff members may, however, find it helpful to contact a notary of their choice in order to obtain all the necessary information about the documents required, the procedures to be followed and the time required to complete such formalities. If an undertaking to purchase is to be signed and a down payment made before the purchase authorization is obtained, it is advisable to make provision in the undertaking for reimbursement of the down payment in the event that authorization to purchase is not granted.

45. Practical information

An application may be made only when the purchaser already has a particular piece of property in mind for which a draft bill of sale has been prepared or an undertaking to purchase has been signed. In the latter case, the application must be made promptly following the signing of the undertaking to purchase.

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