



## ***ACQUISITION***

*OF REAL ESTATE IN SWITZERLAND BY  
A PERSON DOMICILED ABROAD*

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A. INTRODUCTION

The purchase of a second home implies important decisions and must always remain a matter of trust. Therefore contact a real estate company with a long experience and a solid reputation.

Villars-Chalets SA

is a Real Estate agency established in Villars for 40 years that remains independent specialising in the local real estate. For these reasons the company has an extensive knowledge of the market and its clients' requirements.

Each property has been professionally evaluated and each client receives a completely personalised service.

With this in mind we provide you with this document.

B. PURCHASE OF A SECOND HOME

1) **Conditions of sale**

The sale of real estate to persons domiciled abroad is subject to various laws and edicts. The Federal law for the acquisition of freehold property by non-residents, commonly known as "**Lex Furgler-Koller-Friedrich**" stipulates sales to foreigners on the basis of **annual quotas** per tourist region (Cantonal contingent).

This law came into effect on the 1st January 1985 and followed different legislations, in particular the Lex Furgler. Its goal is to limit the acquisition of apartments and other properties in Switzerland by foreigners.

These quotas are sometime are completely used during the year and yo have to wait until the following year, or even further (2 years in some cases) until an authorisation is available.

This is valid for the new properties and/or for the one owned by Swiss or foreigners residing in Switzerland. The non-residents that were granted a quota can transfer it and therefore when they sell their property they can be transferred quickly (about 3 to 4 months.)

2) **Conditions of purchase**

Firstly, it must be pointed out that neither a **fictitious person** such as a limited company nor any other forms of anonymous legal entity cannot acquire a holiday home. The purchase must be made in one's **own name**.

Also, those with a C permit are treated as Swiss nationals for the purchase of buildings and can therefore acquire any apartment, chalet, building, land or villa in Switzerland.

European nationals from an EU country (or EFTA) benefiting from a B permit can acquire properties as a Swiss, including for speculation. Holders of B permits coming from any other country can also buy property freely as long as it is their main residence. If they purchase as a second home, they must also request an authorisation.

3) Legal restrictions

- a) Non-Swiss (not residing in Switzerland) may only own ONE property per family in Switzerland: family defined as husband and wife and/or under-age children. After the age of 18, the son or daughter of an owner may purchase one property in his/her own name, provided he/she can prove his/her financial independence.
- b) The foreign purchaser may buy an apartment with up to **200 m2 of living area**. The purchase of an individual chalet is also possible if the land does not exceed about 1,000 m2 (to date the limit has reached plots up to 1,750 m2). In this case, the inner living area cannot exceed 200 sqm (but you can add to this surface the garages and the rooms like cellars, heating room etc...). Special authorisations may be obtained if the owner can prove the necessity (large family, grand style of life) or for land if it is sloping or the configuration justifies it.
- c) The owner, or his family, must occupy his apartment as a holiday home, in principal every year, but for not more than six months as per the law for stays of foreigners in Switzerland.
- d) The property can be rented out for up to 11 months per annum. Annual rentals are not allowed.
- e) The property cannot be resold within 5 years. (Except in case of emergency, like death, illness etc. but then it must be resold without profit) Delay starts as soon as the property is transferred into the name of the new owner and not when the initial sales agreement is signed.
- f) In certain cases, if the apartment is not occupied for a long period, the property must be resold within a time limit of two years.

C. PURCHASE OF A PRIMARY RESIDENCE

Persons benefiting from a C or B permit from the European Community (EU or EFTA) are free to acquire any property that they wish. From this point of view they are treated as Swiss nationals.

For other foreigners (non-European B permits) they may acquire a primary residence without authorisation (in their own name) as long as the surface area does not exceed 3,000 m<sup>2</sup>. Above the figure of 3,000 m<sup>2</sup> a special authorisation can be requested if the property represents a whole (for instance an estate).

They will have to occupy the property themselves and use it as their main home.

A European B permit (EU or EFTA) is easy to obtain when the person is no longer working and has sufficient financial means, regardless of his age. For non-Europeans obtaining a B permit is more difficult: one has to have a certain wealth, be no longer working and in principle have an age of 55 plus.

Persons exercising a lucrative activity can, through the company they are working for, obtain a B permit.

D. PURCHASE PROCEDURE AND GUARANTEES

1) **Purchase procedure for a holiday home**

Once the client has made his choice, the procedure is as follows:-

- a) To complete a **civil status questionnaire**.
- b) To sign a **Power of Attorney** which states:
  - the name and full address of the purchaser(s)
  - the location and name of the chalet, the number of the apartment and its floor
  - the number of the parking bay (if applicable)
  - the detailed sale price :

price of the apartment	
+ price of the parking bay	
+ price of any furnishings (if applicable)	
= Total Sale Price	
  - the schedule of payments, in relation to the progress of the works, if buying off-plan (% of the total purchase price)
- c) To provide copies of the first three pages of each purchaser's **passport or identity card** duly signed. The signature of the purchasers on the copy of the passport or identity card must be authenticated by a Notary or solicitor.
- d) To pay a **reservation deposit** of 15% into the Notary's holding account

These documents (a.b.c.) are normally completed and forwarded to the Notary by our office.

Only once all these documents & payments (see a.b.c.d.) have been received will the notary take the following steps:-

1. Sign an **agreement to sell and purchase** (Promesse de vente et d'achat) or a contract for a **sale for conditional completion** (Vente à terme conditionnelle).
2. Apply for the **authorisation to purchase** on behalf of those who are not resident in Switzerland.

The administrative time taken to obtain the authorisations is usually two to three months from the date the application is submitted.

Once the authorisation has been received from the cantonal department and ratified by the Federal authority, the Notary will draw up the final contract to sell (Acte de Vente Définitif) if there has been an agreement to sell and purchase, or the transfer document requisition to the Land Registry has been signed if a conditional sale contract has been signed.

There is no need to worry about not receiving an authorisation to purchase as long as the future owner **does not own another property in Switzerland** and that the surface conditions are not exceeded.

The procedure will follow its course and you will be asked to pay, as per the clauses in the contract, the instalments at the time of their deadlines.

The Notary's fees and the acquisition costs (about 5% of the sale price) must be settled on the day of completion.

## 2) **Guarantees**

- a) The construction guarantee for a new property is as follows:-
  - 5 (five) years for construction defects
  - 10 (ten) years for hidden defects

Your best guarantee is the experience and professionalism of the developer-builder who assumes wholly his responsibilities.

- b) Resale properties have no guarantee.
- c) Guarantee for the good finish of the work

An official notary (practising in the Canton of Vaud) will act for both the vendor and purchaser. He will complete all the documents required for the legal acquisition and will protect the interests of both parties.

The guarantee given to the builder-developer by the banking establishments is real and objective: the banks will only grant their trust to developers with a solid financial base.

E. FINANCIAL ASPECTS

1) **Terms of payment**

a) For completed apartments or resales

upon reservation	15 %
at signing of Final Deed	<u>85 %</u>
Total	100 %

b) For apartments under construction

upon reservation	15 %
the laying of the foundations (*)	20 %
when the roof is built (*)	30 %
the laying of screeds (*)	30 %
upon receipt of the keys	<u>5 %</u>
Total	100 %

(\*) These terms are adapted according to the stage of construction reached at the time of the signing of the Power of Attorney. Some builders have different schedule of payment.

2) **Financing - Mortgage**

The standard loan on mortgage granted by Swiss banks for purchases with only the property as security is **50 to 60% of the total sale price** (incl. parking space). The rate of interest follows the base rate set by the Swiss National Bank and varies depending on the economic trend. A larger mortgage can be arranged on the basis of additional security/guarantees.

3) **Legal formalities**

a) Purchase costs

The total purchase fees amount to 5.5 % and are broken down as follows:-

- Cantonal and Communal transfer taxes: 3.3 %
- Notary fee: 1.7 %
- If the setting up of a mortgage is necessary, the related cost will generally be in the region of 0.5 % with a slight variation depending of the amount granted by the Bank (when it concerns a resale, if the previous owner already had a mortgage, then it is taken over by the new purchaser without any cost).

The future owner entrusts the notary's office – usually by **Power of Attorney** - with the duty of ensuring that all the legal formalities are respected, particularly the recording of the deed at the Land Registry and the freeing from all previous mortgages on the apartment.

#### 4) Fire insurance

Fire insurance for the building and its furniture is compulsory in the Canton de Vaud, (the premiums are very low: 0.055 % of the insured value).

Insurance for the replacement value is recommended.

Concerning an apartment, the insurance of the building is included in the co-property charges.

### F. LEGAL ASPECTS

#### 1) Structure

The « **Propriété Par Etage** » (PPE) means co-ownership by floor.

The co-ownership is a legal right which consists of two indissolubly linked elements:-

a share of the whole building and its integral parts (totality of the property) walls/fences/screeds & flooring/roof covering & metalwork and common areas.

an exclusive right to use your defined parts of the building.

The building is divided into quotas or lots expressed into 0/00 (thousandths).

The co-ownership's official body of control is the co-owner's Annual General Meeting.

#### 2) Recording in the Land Registry

The acquisition of the property is made legal with the recording of the purchaser(s) in the **Land Registry**.

From the date of legal possession of the property (*entrée en jouissance*) the co-property charges and the taxes are due by the new owner.

G. a) COSTS AND RENTAL

1) **Annual co-property charges**

It is commonly estimated that the annual running costs of a building are usually between **0.9 % and 1.1 %** of the purchase price. They could be higher if the property is old and needs renovation.

These costs are divided up proportionately per the thousandths of each building.

These expenses include:

- caretaker / social security contributions
- maintenance of building and materials
- water / gas / electricity and heating
- insurance and various taxes
- gardening and maintenance of roads (+ snow clearing)
- administration fees and various expenses
- an allocation to the building's renovation fund.

The manager (of the co-property) collects the relevant amounts to cover the total expenses incurred by the building, which are payable in advance quarterly or half-yearly.

2) **Taxes**

Taxes are paid to three bodies: The Swiss Government (Confédération), the Canton and the Commune.

For individuals, only the property located in the Canton of Vaud and its income (rental revenue) are taxable. All other income and wealth are taxable in the place of residence of the owner.

However, all such holdings must be declared to the tax authorities to determine the rate of the **total taxes** unless the owner accepts to be taxed on a **flat-rate** basis which can be sometimes more advantageous.

The **FISCAL VALUE** of the property is used to determine the **TAXABLE WEALTH** (80% of the purchase price).

The **RENTAL VALUE** is equivalent to the amount the owner should pay for renting a similar property. This constitutes the basis of the **TAX ON INCOME**.

The following taxes are in addition to the above: -

Direct Federal Tax, Annual Land Tax and Tourist Tax.

Taking into consideration the aforementioned details, obviously variable, experience shows that the total taxes amounts approximately to **1.385 % of the purchase price of the property**.

### 3) Rental and rental income

Our company can deal with the management of your property. For rentals, we recommend the company INTERHOME whose offices are adjacent to our management company. The experience proves that the RENTAL RETURN should allow you to cover approximately all the costs of the property (co-property charges and taxes). In this case one has to make the sacrifice to make the property available for rent during the high season.

#### G. b) BREAKDOWN OF THE CALCULATION OF TAXES

**Land Registry Fiscal Value = 80% of the purchase price**

This estimation allows the calculations of the property tax and the Cantonal and Communal tourist taxes (taxe de séjour).

Tax for the tourist equipment (0,4 o/oo of the fiscal est.)

Property tax : 1.3 o/oo of the Land Registry Fiscal Value

Communal tourist tax:

- a) flat rate : 1,7 o/oo of the Land Registry Fiscal Value,  
min CHF 350.--, max CHF 750.—
- b) per night : adults CHF 3.30, and children (10 to 16) CHF 1.25

**Tax on income:** (flat-rate offered to non-residents)

a) Cantonal tax: Land Registry Fiscal Value x 3% x 11% x 122%

b) Communal tax: Land Registry Fiscal Value x 3% x 11% x 90%

**Rental revenue:** Land Registry Fiscal Value x 3%

**Tax on wealth:** (flat-rate offered to non-residents)

Taxable fortune 50% of the Land Registry Fiscal Value

a) Cantonal tax: taxable fortune x 3.3 o/oo x 122%

b) Communal tax : taxable fortune x 3.3 o/oo x 90%

**Direct Federal Tax :** rental revenue x approx. 10%

**Example** for an apartment costing Fr. 600,000.--

Land Registry Fiscal Value 80% of the purchase price = 480'000

Rental revenue: 480'000 x 3% = 14'400.--, Taxable fortune: 480'000 x 50% = 240'000.-

Property Tax 1,3 o/oo Land Registry Fiscal Value	=	624.00
Tax for the tourist equipment	=	192.00
Communal tourist tax	=	750.00
Tax on income (cantonal)	=	2'399.80
Tax on income (communal)	=	1'140.50
Tax on wealth (cantonal)	=	1'199.90
Tax on wealth (communal)	=	570.25
Direct Federal tax	=	<u>1'440.00</u>
Total taxes	=	8'314.45

which is about 1.385 % of the purchase price

Experience shows that sometimes these amounts can vary in reality.

H. INHERITANCE & RESALE

**1) Death Duties**

This tax depends on whether the specific case involves direct descendant heirs or not. In Switzerland for direct line inheritance, death duties are 5.25 % of the 80 % of the fiscal value.

It is recommended that you consult a notary regarding the implementation of the Swiss law in this matter compared to the law in your country of origin.

**2) Property Gains Tax**

In case of resale, the notary must according to the law withhold 5 % of the sale price to guarantee the payment of the property gains tax. The taxable profit is the difference between the sale price and the cost price: cost price = purchase price (which is not indexed to the Swiss index of consumer price) + purchase costs + extras (special works) + commission paid for the resale. Once the breakdown has been submitted to the Tax Office, the notary reimburses, if need be, the balance to the vendor. The percentage of the tax is degressive taking into account the years that you have owned the property.

30 % the first year on the net profit made, and afterwards for example:  
18 % after 5 years, 15 % after 10 years, 10 % after 20 years and 7 % from 24 years.

If needed, we can provide a brochure a detailed brochure regarding the resale of properties

**For any additional questions, please contact our office**

**Our sales team is available on +41 24 495 16 66**

This document is for information only and does not constitute any part of a contract