

---

## Buying property through an SCI

A common way of buying a property in France is through the use of a Société Civile Immobilière, or SCI. The use of this method has benefits for French residents, as well as foreign residents. Off-plan properties France / French Leaseback Property / French Riviera property

What is an SCI? An SCI is essentially a fully incorporated company with a registered office in France. This office can be the property itself. The SCI then owns the property in question. Being a company, the SCI is itself owned by shareholders, in most cases, family members. The shareholders can be resident or non-resident in France. Note: It is important to note at this point that the tax consequences of the purchase through an SCI should be analysed according to French law and the tax treaty between France and the home country before going ahead with any purchase.

### Advantages of an SCI

- In terms of inheritance, the use of an SCI overcomes some of the disadvantages that France's Napoleonic laws entail.

French law dictates that upon the death of the home's owner, the property is divided up between the surviving spouse and any children.

The decision about what to do with a property which may now be too big for - for example - an elderly widow, is passed on to the widow and any children either from that marriage or previous. This can be potentially "uncomfortable" where stepchildren are involved.

However, using an SCI and its shareholder status means that the parents can appoint themselves as majority shareholders.

They can make provision that upon the death of one or the other that his or her shares are passed onto the surviving spouse, therefore ensuring that the controlling share remains in the hands of the parent, and any decision regarding the property belongs to the partner of the deceased.

- Where succession remains the issue, shares in a company are easier to distribute than immovable property, and so managing inheritance, and transferring the property, is simplified.

- The shareholder structure means that it is easier to divide up shares, rather than splitting the ownership of a property.

In turn, this makes it easier for individuals with small budgets to pool their funds and buy a property that they would not be able to buy individually.

It is also easier to dispose of the shares without the aid of a notaire, thereby making the SCI more flexible than direct ownership.

- When using an SCI to buy a property, the net worth of the property can be reduced for tax purposes by way of debt. This can minimise French wealth tax and inheritance tax liability.

- Where foreign residents are concerned, the use of an SCI can be a great advantage for people whose home inheritance laws are more flexible than French laws, outlined above.

Upon death, the applicable law is normally the one of the country where the property is located. However, if the property is owned through an SCI, then the applicable law will be the one of the last country of residence of the deceased.

Owning a home in France via an SCI means that the French property becomes part of the estate of their country, as opposed to direct ownership of immovable property, which is subject to estate law in France. This is important to bear in mind in terms of inheritance.

- The terms of an SCI can be changed at any moment. Disadvantages of an SCI While there are numerous advantages of owning a property in France through an SCI, there are also a handful of drawbacks which should be considered. Using an SCI to purchase a property will incur additional expenses. No matter what property is purchased, the future purchaser will have to pay purchaser's fees to the notaire. On choosing to set up an SCI, one should equally make provision for the registration expenses as well as its running costs. The latter for example being the company's annual accounts. In particular the renting of the property on a furnished basis in a commercial manner may render the SCI liable for company taxation rates and methods - a big increase in the work required on tax returns each year and possibly more expensive. This applies particularly to leasebacks or properties you intend to rent furnished (inc. holiday lets). As with any major financial transaction, it is always best to get the advice of professionals, in this case property law professionals. Each case is different and requires individual, and where possible, an independent study into its necessity and feasibility.

---

Obtaining the assistance of a locally-based professional will ensure that you are receiving the most relevant and current information regarding legislation. SCI Accounting If you have chosen to purchase a home in France via the Société Civile Immobilier or SCI and because the SCI is effectively a company, you will need to establish and register your SCI and keep annual accounts. These are some pointers on how to take care of the paperwork involved in running your SCI. Accounting System A French SCI is obliged to maintain its accounting in French, based on the French Tax Code. This means following the French accounting plan.

Note: The average SCI holds family property and does not have much bookkeeping. It would, under these circumstances, be quite hard to maintain normal English (or other) accounting records and it would involve some training to be able to learn how to keep your books on the French basis. It is often easier to use an accountant who works within the French system, the cost of which is probably justified. The accounting of an SCI is not regulated as it is not normally used for commercial purposes. You can obviously control your own accounts but this does not avoid the French accounting issues.

Accounting Obligations For an SCI to exist as a real company it must:

- keep regular records
- prepare annual accounts
- hold an annual general meeting of the members to approve the accounts
- maintain statutory records in a legal register. If this is not carried out, the company can, under the civil code, be considered to be non-existent with the resultant tax consequences. It is important to understand that an SCI is a "moral person" and by not filing annual tax returns one can be assessed for a 3% tax on the market value of the property annually. Wealth tax is due on the net value of the shares of the SCI; that means the value of the property, less debt. This even applies to non-residents. Assets are cumulated for wealth tax purposes. (This is not always clearly explained to foreigners.) French case law emphasizes that it is vitally important that records be maintained. Note: In the UK, the government is currently reviewing its treatment of SCI's as they have misinterpreted the French administration's notions of a French SCI. There is considerable correspondence and confusion concerning this issue and the UK Inland Revenue service has agreed to suspend all litigation pending their review on this issue. The Revenue seems to be taking a view that an SCI is a company which is not strictly correct as there is no UK equivalent legal entity, and as such shareholders who use the property owned by the SCI may be due for tax on a 'benefit in kind'. There are ways to potentially avoid this and tax advice should be sought.