April 2019

SOME MAJOR CHANGES DID AFFECT THE ALL TAXATION SYSTEM IN FRANCE SINCE GENERAL PRESIDENTIAL ELECTION AND NEW CHAMBERS

Among several changes made:

The **repeal** of **wealth tax** on every asset which is not real estate. With such a change the so called former "wealth tax" becomes similar to any real estate tax and is now called the "Impôt sur la Fortune Immobilière" "Real estate wealth Tax". It is intended to drive financial resources to business initiatives and Paris being highly attractive avoid an uncontrolled rise of prices in housing costs. Economically, it should be seen as a cost of investing in real estate in France where at least in Paris and close neighborhood the rise in prices remains very high.

The "**housing tax**" called "la Taxe d'habitation" the equivalent to the "school tax" in the US will be repealed in 2019 for many (€ 30,000 for a tax payer filling single or € 47,778 for a couple households. In general, due quite high-quality management of municipalities its burden is lower than in many other places. (As everyone knows standard education is for free by principle and Kidd garden (with shortages) college and universities have a duty to host any candidate with appropriate credentials

Income from **stocks and Bonds**: A flat tax of 30% "Impot Forfaitaire Unique" (unified flat tax) is now applicable for all of portfolio income including capital gains. A safeguard allowing the keeping of the former status is granted for those already benefiting from special regimes for capital gains retiring persons, founders of SMEs…). US citizens do not benefit from that favorable regime because they remain taxable in the US and are exempt by treaty.
Beware: US citizens do not benefit from this favorable system because they remain fully taxable in the US. To facilitate their moving eventually to France tax treaty between US and France provides that they are fully exempt from tacx in France on such income.

The current flat tax called Contribution Sociale Généralisée "CSG" which hits passive incomes (portfolio income, real estate, capital gains) is raised to 17,20 but at the same time a reduction of the social charges is granted to balance the effect of this raise. It does not add up with the above. US citizens are not exempt from CSG on dividends and capital gains on portfolios.

Businesses corporation tax:

Many special Regimes do exist for corporate tax and social charges on start-ups and research expenses.
Corporate tax now on a trend to become capped at **25% over time.** (27% below a definite fresh-hold). For 2019 tax year rates are (small SMEs up € 38,120 profits 15 % and 28 % between € 38,120 and € 500.000. PMEs are at 28% up to € 500,000 of profits and 31 % over this fresh-hold, 2019 and 2020 marginal rate will be at 28%, 26,5 % for 2021 and 25 % for 2022.
Companies with 250 M€ revenues for 2019 (tax year starting on January 1st 2019 will remain at 33.3%.

PATENTS and SIMILAR INTANGIBLE ASSETS (Art 238 of Code Général des IMPOTS)

For 2019
On option (only);
Assets cover: Item by item Intangible assets: Patents or IP or which may become patented (as certified by INPI and for group of companies with consolidated revenue do not excess 50 million€) , utility certificates ?
Basis: net derived income (like royalties) minus related research and development expenses for the year or capital gains if the IP has been acquired before the last two years. If not all of the IP is concerned a prorata ratio is applied. This ratio will compare total of IP with total of covered assets for which the option has been made. A yearly list is attached to the tax return when filed. When opt out such option is final

Corporate Tax reduced to 10%.

Summary of French Taxation

Individuals:

Principles are stable but a major collection was modernized with the Prélèvement à la Source PAS – the income withholding tax applicable since January 2009) as it already exists in many countries such as the US.

General Principles

Tax residents meaning those with their core center of interest located in France are to file. What is “residence”? It will be where they live more than 183 days in a year and where their family resides or where they derive most of their income. In essence, it will be where the core of their existence is located.

If they share their time between several countries, tax treaties will apply. In case of doubt the country of citizenship may prevail. Some may have a dual (or more) tax residency or tax attachment. For instance in the case of US citizens or other tax residents from the US who had left the US without returning their US citizenship or emigrant visa. In such cases referring to the applicable tax treaty is needed.

The filling system is a family unit system (one filling per family). A family includes the married couple if not separated; the kids up to the age of 18 (can be extended on option to 21 and to 25 if still enrolled at university or school). The size of the family, number of adults, one share and kids, half a share for the two first ones will determine a number of shares by which the tax schedule will apply to the taxable income (it will be divided) with a capping.

It is a worldwide income taxation system as opposed to the system prevailing in some countries such as the US, it stops when the residence criteria stops (subject in some cases to the exit tax). To split income between earned before quitting and after moving the residence starts the day the family moved to France and ends when it quits.

For moving family or single the residence criteria when no other physical evidence as the moving of belongings the day when they intended to have moved will be used as referential whatever was the number of days spent in each country.

Even if nonresident an individual who receives income from French source (salary, real estate, or business income) other than on portfolios may also have to file and is in all cases subject to withholding taxes depending on the nature of the income where from it derives. (As opposed to French tax resident only French source income is concerned).

As for all OCDE countries real estate and direct income from businesses are taxable in the country where deriving from. In addition, revenues of French source real estate or not, will be taxable in France even if the beneficiary is a non-resident. It is the same for non-residents when US source income is concerned.
Taxation will occur either through a withholding process or with applying the tax schedule depending on the tax treaty and the nature of income (And for non-residents offsetting the withholding tax from France). In any case tax treaties will overrule internal law to address allocation of income to be taxed in one country only.

Tax payers from participating countries to a tax treaty must file for the relevant share of income in the relevant country. Meaning in most cases they must file in each country as soon income is collected. All foreign bank accounts must be reported.

Remember that supplement to the general tax Schedule applying to all worldwide income except if differently set within an international tax treaty to avoid double taxation there is a special contribution called Contribution Sociale Généralisée CSG at 17.2 % applying to all non-earned income (similar to passive income concept). Income supporting the CSG derives from the following, real estate, investments (dividends and interests and derived capital gains). 6.8% of the CSG is deductible from the Tax Basis.

French tax residents are taxable in their worldwide income.

Non-French tax residents are only taxable on their French source income

French source income is deemed to be real estate and business income if activity is deployed in France.

Withholding tax for payments of salaries, pensions, to non-residents

French source income paid to non-French tax residents are subject to a withholding tax (rate are subject to tax treaties limitation and an aggravated rate when carried to a non-cooperative country – Nauru, Guatemala, Brunei, The Marshall Islands, Boswana, Nuie Island and Panama).

Monthly Taxable Income Brackets			Tax rate on income
From €		To €	
0	up to	14,961	0
14,961	to	41,952	12 %
41,951	and	above	20%

Persons transferred to France (becoming French tax residents). Transfer allowance
They become French tax residents as soon as they have moved their business center or are in fact permanently located in France (for instance they have moved their home and family) .
The allowance often granted to them by employer is exempted for its real amount when paid by a foreign company for a transfer to a French company. When directly hired by a French company the employee can choose the flat rate to exempt from tax their net salary. It stands at 30% of such net salary before any reimbursement and the 10% rebate for professional expenses Pension plans and other equity bonuses are outside this set up.

Ordinary Income Schedule for 2019 Income applicable to French residents

Income base brackets in €			Tax rate in %
from	0 To	9,964	0
9.964		27,519	14
27,519	to	73,779	30
73,779	to	156,254	41
Income	>	156,254	45

Several deductions and exemptions are granted to taxpayers such as allowance for kids, salary expenses for homecare personal, gifts to non for profits… pensions paid grown married kids to former wife, old parents in need.
The PAS (withholding) will be deducted

Earned Income:

Income from professional practices (non-dependent income) as well as from employment is considered as earned income and is taxable under the general ordinary income tax schedule.

Other taxable incomes deriving from investments (earned or not)

Interest Income is taxable under the 30% flat rate

Dividends from issuers based in the European Union are granted a 40% exemption. Tax treaties (Schedule 2047) will provide for the status and tax credit on dividends from other countries. They are taxable under the general ordinary income schedule but are subject as already explained to a withholding and the flat 17.2% CSG (Contribution Sociale Généralisée) as all non-earned income (see after capital gains).

Stock options: Granted Stock options are taxable in the beneficiary's hands and so is the potential or real capital gain when not accrued within a qualified plan. When corresponding to a cash withdrawal (for instance change of tax residency) the capital gain becomes taxable but will depend on the status of the beneficiary (significant stock holder, founder, retiring….).

French depositary agent will apply on all the above incomes a withholding of 24% on dividends and stock options or 21% on interest. On option, low income may be exempt from this withholding tax. Of course, on stock options several regimes and steps are applicable at time of granting, conversion into shares, sale of the shares – and consequences remain a tax event after the tax payer as left France if earned while in France.

By derogation due to the tax treaty with France, US citizens when tax residents of France are exempt in France on dividends, interest and capital gains on the sale of shares and bonds. They remain subject to CGG of 17,20% on these incomes in France.

Expatriate Concessions

New taxpayers from outside France (including French citizens) who have not been French taxpayers in France on a continuous basis over the 5 years prior to the moving to France are granted a special favorable tax regime reducing both the basis on salary income and on income from portfolios when from foreign source for 8 years. (See our specific separate note). Expatriates are also exempt from wealth tax for 5 years (see wealth tax below)

TAX HOLIDAYS AND REBATES:

Several tax holidays are granted to French tax residents. One has to be careful. They are disallowed to non- residents (PERP, PEA... ISF PME deduction).

CAPITAL GAINS

Real Estate:

Principal residence (current residence after a sufficient presence or residence where the taxpayer when non-resident has lived for at least two years) is exempt from taxes on gain when sold but with limitation for non-residents.

Other Capital gains on real estate are taxable at a 19 % flat rate but is exempt after 22 years of ownership for income tax and 30 years for the CSG (15.50%). The rebate to exemption is progressive over the year depending on the duration of the ownership. An additional tax is levied on capital gains over € 50.000 ranking between 2 and 6 %. There was a special rebate for capital gains on real estate meeting same criteria (ask for details).

PORTFOLIOS:

Capital gains on equity stock, dividends and interest are taxable under the Unified Flat Tax IFU of 30 %. However, upon specific option some the taxpayer can keep the benefit of the previous regime when they submit the portfolios income to the ordinary progressive tax schedule. The basis for capital gains is reduced depending on how long the stocks have been held by the taxpayer. Taxpayer will be granted a 50 % rebate if 2 years and 65 % if 8 years. Founders are granted a reinforced rebate of 85 % and an exemption of basis up to € 500.000 is granted to them whatever is the chosen taxation regime until 2022.This rebate does not apply for capital gains on currency denominated instruments (like bonds for instance) it neither applies to forward instruments. Losses can be offset without rebate raising the question of allocating the losses line by line to the capital gains. The rebate on dividends for those submitting their entire portfolio income to the progressive schedule is at 40 %.

- Special status for some capital gains on securities.

They are retiring stock holders of SMEs created before January 1st 2018 and less of 10 years old. Special status are granted to founders, employees, retiring persons from companies both on equity and other related to equity instruments such as stock options

Retiring tax payers from medium size companies (less than 250 employees and revenue not exceeding 50 million euros company) can benefit from increased exemption rebate (40 % if they have been holding the stake for more than 4 years and 85 % for more than 8 years) for the capital gain they make in selling the equity stake they have been holding.

See above for US taxpayers (concession)

Filling and due date

Filling is online. Due dates are in May or June and tax administration issues a press release to give the exact day. Expatriates are usually granted extra days.

TAX ON REAL ESTATE WEALTH (all other assets are exempted)

A Wealth tax is due on real estate assets located in France own directly or indirectly through controlled companies) by French tax residents with a net value of 1,300.000 € and over. Non-French tax residents are only liable for real estate located in France. When real estate is used by taxpayer for his own business it is exempt. The valuation real estate assets is at fair value and yield rates rank from 0.5 % to 7.5 %.

With caps and rebates French tax residents may offset from the due wealth tax some % of the investments (usually 50 %) they have made in SME's or gifts (75 %) they have made to non for profit and charitable organizations.

Non-residents are only subject to wealth tax on real-estate assets. If they want to keep anonymous the ownership of a real-estate asset they can also opt to pay a 3 % per year tax on the fair market value (Form 2746). This tax is not specifically applying to nonresident but also to any entity with 50 % or more of its assets in real estate property when not disclosing its beneficial owners. It is the entity closest to the building in the line of ownership which is taxable.

Basic Real Estate Wealth Tax Schedule:

Taxable Base			**Tax Rate**
≤ 800.000			0,00 %
800.000	and ≤	1.300.000	0.50 %
1.300.000	and	2.570.000	0.70 %
2.570.000	and ≤	5.000.000	1.00 %
5.000.000	and ≤	10.000.000	1.25 %
		≥ 10.000.000 and <	1.50 %

Estate Tax

When deceasing an estate tax is due by heirs with a basic base exemption of € 153.000 for each of them. After this threshold rates rank from 5 to 45 %.

Exit Tax (article 167 Cgi form 2047CT)

When quitting France, French tax residents (who have been tax residents for 6 out of the 10 past years) are liable for a potential capital gain tax if their global net assets exceeds € 800.000. If there is no taxable event before and if the taxpayer transfers his tax residency back to France, he becomes exempt. As a matter of fact, it applies on potential capital gains and EU citizens are not requested to provide a guarantee for the resulting potential tax payment usually not done. Nor are obliged to guarantee those moving to a country (such as the US) linked with France by a tax treaty providing mutual assistance to both tax administration and automatic transfer of data. For other countries' citizens the requested guarantee to the tax payment will be of 30% of the potential capital gain value.

After either 2 years or 5 years, depending on the wealth level (over or not € 2 750 000 net worth) tax payers are discharged of the assessed tax on potential capital gains.

Home residency capital gain and other sales.

French tax residents are exempt of taxes on the capital gain resulting from the sale of their home (where they have been residing) with no limitation of amount but to be done within one year (December 31st of the following year) after they quitted this domicile for either a EU country or a country linked to France by tax treaty including an administrative assistance clause such as the US). After this limited period the capital gain exemption for expatriate from France will be limited to € 150.000.

Tax Treaties

Tax treaties may have a significant impact on allocating income between two or more countries. Treaties may reserve taxation to one country. This is true for US citizens or US emigrant's status (green cards for instance) residing in France as they remain subject to taxation in the US on their worldwide income minus an exemption of $ 105,900 (for 2019) on earned income. In France, when residing there by exception to the general rule, they may not be taxable on their portfolio income (see above)

Ask us for tax treaties between France and other countries.

WARNING: The above description is incomplete and oversimplified. No precise calculation can be made from schedules without a thorough analysis to be done with a professional or using the administration system and fully completing it with requested detailed information. In most cases advises from a professional is needed.

WE ONLY SERVICE BUSINESS PEOPLE.

French Embassy in Washington deploys a very comprehensive tax site addressing many frequently asked questions by individual.

Non-Residents Tax Center:

SIF Non-résidents TSA 1010 – 10 rue du Centre, 93 465 Noisy le Grand Cedex
Phone : +33 1 57 33 83 00
Email : sip.nonresident@dgfip.finances.gouv.fr
www.impots.gouv.fr

For matters relating the tax treaty between France and the US you may also contact the French tax attaché in Washington (impots.usa@attachefiscal.org)