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France

Last Reviewed - 15 September 2019

Overview

France is a founding member of the European Union (EU) and a member of the G7, G20, Organisation for Economic Co-operation and Development (OECD), and World Trade Organization (WTO). It is divided into 12 metropolitan regions, with Paris as the capital. The official language of France is French, and the currency is the euro (EUR).

The French government still maintains a strong presence in some sectors, particularly power, public transport, and aerospace and defence industries. With at least 89 million foreign tourists per year, France is the most visited country in the world.

PwC has developed expertise in France in audit, accounting, and consultancy for businesses of all sizes, in public and private sectors. PwC and PwC Société d'Avocats, its correspondent law firm, have over 5,200 professionals in 24 offices in France. PwC Société d'Avocats offers a multidisciplinary response capacity by mobilising teams of lawyers and professional specialists in taxation, business law, and employment law to provide services in the following areas:

• Corporate income tax	• Tax audits and tax litigation
• Mergers and acquisitions (tax and legal)	• Tax strategy
• Business transfers (tax and legal)	• Corporate law
• Business restructuring (tax and legal)	• Commercial law
• International taxation	• Contract law
• Local taxes	• Banking and financial services
• Transfer pricing and value chain transformation (VCT)	• Securities law and regulatory
• Tax management and accounting services	• Structured finance

• Taxation of financial products	• Competition law and distribution
• Real estate tax	• EU law
• Green taxes	• Social security law
• Value-added tax (VAT)	• Insurance law
• Customs duties and excise taxes	• Real estate law
• Personal taxation	• Environmental law and sustainable development
• Management of international mobility	• Intellectual property law
• Property taxation	• Information technology law
• Employee stock option plan and other tax incentives	• Corporate governance

Corporate - Significant developments

Last Reviewed - 16 September 2019

Digital services tax

As of 1 January 2019, a 3% digital tax applies to companies providing certain digital services in France with global annual revenue in excess of 750 million euros (EUR) and annual revenue in France in excess of EUR 25 million. The tax applies in particular to the provision of a digital interface by means of electronic communications allowing to contact and interact with other users as well as services to advertisers or their agents aimed at placing targeted advertising messages on the digital interface based on the interface user's data collected or generated through the case of such interface. Detailed regulations on this digital services tax are expected in the coming months.

New Double Tax Treaty (DTT) between Luxembourg and France

On 20 March 2018, the Luxembourg and French governments signed a new DTT, together with an accompanying Protocol.

The new DTT seeks to modernise the treaty as a whole; the current treaty between Luxembourg and France was signed as long ago as 1 April 1958. The new DTT is fully ‘post-BEPS’. It implements the new approaches developed at the international level during the Organisation for Economic Co-operation and Development (OECD)/G20 base erosion and

profit shifting (BEPS) project, and now reflected in the 2017 version of the OECD Model Tax Convention and in the Multilateral Convention to Implement Tax Treaty Related Measures, signed by both Luxembourg and France in June 2017.

More specifically, the DTT redefines what constitutes a permanent establishment (PE) for the purpose of the DTT and introduces new rules for the taxation of cross-border payments, such as dividends, interest, and royalties. The Protocol clarifies the situation of cross-border workers and grants limited access to the DTT to Undertakings for Collective Investments (UCIs).

Assuming that both the Luxembourg and French governments complete the necessary processes for ratification of the new DTT, the provisions of the new DTT could be applicable in many situations from as soon as 1 January 2020.

Progressive reduction of the corporate income tax (CIT) rate

Pursuant to the action plan released by the French Prime Minister in September 2017, the French CIT rate cuts will apply over a five-year period as follows (for all companies with revenues exceeding EUR 7.3 million):

Profits (EUR)	CIT rate (%)			
	Fiscal year (FY) opened as of 1 January 2019	FY opened as of 1 January 2020	FY opened as of 1 January 2021	FY opened as of 1 January 2022
0 to 500,000*	28	28	26.5	25
In excess of 500,000	31**			

* Situation of small corporations not addressed.

** Raised to 33.33% for corporations having revenue in excess of EUR 250 million.

Modification of the interest deductibility limitation rules

New thin capitalisation rules were adopted and enter into force for financial periods open as of 1 January 2019. They impact the so-called 'rabot' as well as the '*Carrez*' regulation. These new rules implement the European Union Anti-Tax Avoidance Directive (EU ATAD).

Modification of the patent regime

As of 1 January 2019, new rules under the new patent regime apply to patent income with the view of making the regime EU compatible.

Eligible patent box net income is subject to CIT at the rate of 10%.

Modification of the tax consolidation rules

As of 1 January 2019, new rules apply to certain aspects of tax consolidation (namely taxation of certain capital gains and taxation of subsidies within the tax consolidation).

Transformation of the CICE tax credit into a decrease in employer's charges

The CICE ('*Crédit d'Impôt Compétitivité-Emploi*') tax credit is calculated as a percentage of wages paid during a calendar year to employees earning less than 2.5 times the French regulated minimum wage (SMIC).

For wages paid on or after 1 January 2018, the 2018 Act reduces the CICE tax credit rate from 7% to 6%.

For wages paid on or after 1 January 2019, the CICE tax credit is repealed and replaced by a permanent decrease in payroll charges paid by employers to finance the French social security system.

This new regime enhances the scope of intellectual property (IP) eligible to the favourable regime by including software in addition to patents.

This new regime defines eligible revenue as being the net of the IP revenue (licence, sub-licence, and sale) and of the related research and development (R&D) expenses and then is applied as a nexus ratio (the percentage of R&D expenses incurred by the taxpayer and independent suppliers over the total R&D expenses). In other words, the R&D expenses charged by related parties or by a PE are excluded when determining the numerator.

This regime is optional, including per product/per group of products, and provides for transactional rules applicable to FY19 and FY20. It also provide for specific rules for tax consolidated groups.

Calculation of the revenue generated by tax group members for CVAE tax rate purposes (article 15 of the 2018 Act)

The CVAE ('*Cotisation sur la Valeur Ajoutée des Entreprises*') is a tax based on the added value that a taxpayer produces, and it depends on its gross revenue.

The CVAE tax rate applicable to a French group of companies complying with the conditions to set up a French tax group (i.e. 95% ownership) is based on the consolidated gross revenue recognised by the group of companies for a given year, whether or not they are effectively part of a French tax group.

The regime applies to the CVAE due in 2018.

Elimination of the 20% increased payroll tax rate (article 90 of the 2018 Act)

The payroll tax is due from French employers whose activity is not subject to value-added tax (VAT). It is assessed annually on gross wages and benefits in kind paid by the employer.

The standard rate of the payroll tax is 4.25%, but increased rates apply to gross individual wages that exceed certain thresholds. Those increased rates are:

- 8.5% for wages ranging from EUR 7,924 to EUR 15,822.
- 13.6% for wages in excess of EUR 15,822.

As a result of Brexit and to increase hiring of foreign executives by cutting the related tax costs, the 2018 Finance Act eliminated the 20% increased rate.

Financial transaction tax (FTT) (article 39 of the 2018 Act)

The 2018 Act repeals the FTT provision that otherwise would have applied to intra-day trading for acquisitions made on or after 1 January 2018.

Therefore, the scope of the FTT remains the same and excludes intra-day trading transactions.

Modifications of the tax deferral regime applicable to French reorganisations

The 2017 Act brought several amendments to the favourable tax regime set forth in Article 210 A *et seq.* of the French Tax Code (FTC):

The 2017 Act introduces a requirement to benefit from the tax deferral regime when a French entity is absorbed by a non-French entity: The assets of the merged entity have to be part of a French PE of the foreign receiving entity.

- A specific filing is required for absorptions benefiting non-French entities.
- Under an anti-avoidance provision, mergers, spin-offs, and partial contributions of assets whose main purpose is tax fraud or tax evasion are now excluded from the tax deferral regime.
- For a partial contribution of assets, attribution of shares to the shareholders of the contributing entity is possible without any prior ruling as long as, *inter alia*, the following cumulative conditions are met:
  - The shares in the beneficiary company are attributed to the shareholders of the contributing company on a *pro rata* basis with respect to their shareholding in the latter, within one year of

the contribution.
    - The initial contribution benefited from the favourable merger tax regime.
    - At least one complete line of business remains within the contributing company once the contribution is completed.
    - The shares that are attributed have been received in exchange for a contribution of assets constituting a 'complete line of business'.
- Some interim operations made by companies (e.g. a division or regrouping of shares) normally generate a taxable capital gain or loss unless the tax authorities have granted deferral of taxation on these transactions, subject to conditions. This deferral regime is codified as part of the French tax law so that a tax deferral applies.

The above measures apply to mergers, de-mergers, contribution of assets, and spin-off operations completed on or after 1 January 2018.

Restricted deduction of foreign withholding tax (WHT) (article 14 of the 2017 Act)

French loss making companies receiving a foreign tax credit for a WHT were not able to offset this credit. Consequently, the expense corresponding to the tax paid abroad was deducted for French tax purposes.

While the French tax authorities challenged this position, the French Administrative Supreme Court ('*Conseil d'Etat*') ruled that companies could take a deduction if such deduction was not expressly forbidden by the applicable tax treaty.

According to the new legislation, regardless of the tax treaty, foreign WHTs are no longer deductible.

However, absent a tax treaty entered into with the country applying a WHT, or if the tax was withheld in breach of the relevant treaty provisions, it remains deductible for French tax purposes.

France aligned transfer pricing documentation requirements with OECD Action 13

Large corporations located in France (i.e. with annual turnover or amount of gross assets in excess of EUR 400 million) are required to provide documentation containing general information regarding the relevant group of companies.

For financial years beginning on or after 1 January 2018, these French entities would have to present to the French tax authorities transfer pricing documentation that is largely inspired by the OECD's recommendations, now published as the new Chapter V of the OECD's Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations.

The new legislation mostly aligns with the list of information recommended by the OECD for the master file and the local file, and the following informational elements will now be required by law to be included in French transfer pricing documentation reports (non-exhaustive list):

- The group's organisational chart.
- A description of the supply chain of the five main products and services offered by the group as well as any other goods and services amounting to more than 5% of the group's turnover.
- The intangible assets.
- The inter-company financial activities and its main sources of external financing.
- The group's financial and tax positions.
- A description of the significant intra-group transactions and the conditions under which they were entered into.
- A reconciliation of the financial data used for transfer pricing purposes and the French entity's statutory accounts.

The penalty regime has not been modified, and companies that do not meet their transfer pricing documentation obligations expose themselves to a penalty that is the greater of:

- A minimum of EUR 10,000 for each fiscal year concerned.
- 5% of the taxable profits deemed to have been transferred for each fiscal year.
- 0.5% of the amount that represents non-documented transactions.

Corporate - Taxes on corporate income

Last Reviewed - 16 September 2019

A resident company is subject to CIT in France on its French-source income. In that respect, income attributable to foreign business activity (if there is no treaty in force between France and the relevant foreign country) or to a foreign PE (if a tax treaty applies) is excluded from the French tax basis.

A non-resident company is subject to CIT in France on income attributable to French business activity or to a French PE, as well as on income from real estate located in France.

France levies CIT as follows:

<table>
<tr><th rowspan="2">Profits (EUR)</th><th colspan="4">CIT rate (%)</th></tr>
<tr><th>FY opened as of 1 January 2019</th><th>FY opened as of 1 January 2020</th><th>FY opened as of 1 January 2021</th><th>FY opened as of 1 January 2022</th></tr>
<tr><td>0 to 500,000*</td><td>28</td><td rowspan="2">28</td><td rowspan="2">26.5</td><td rowspan="2">25</td></tr>
<tr><td>In excess of 500,000</td><td>31**</td></tr>
</table>

* Situation of small corporations not addressed.

** Raised to 33.33% for corporations having revenue in excess of EUR 250 million.

Social contribution tax

The social contribution tax is due by any corporation at the rate of 0.16% assessed on the revenue excluding VAT and after deduction of a EUR 19 million relief.

Patent box regime

Under certain conditions, income derived from the sale or license of patents or patentable inventions, as well as software under restrictive conditions, is taxed at a reduced CIT.

Capital gains

A reduced tax rate applies to certain capital gains. *See Capital gains in the Income determination section for more information*.

Local income taxes

No income tax is levied on income at the regional or local level.

Corporate - Corporate residence

Last Reviewed - 16 September 2019

France is defined as metropolitan France (excluding the overseas territories [TOM], but including the continental shelf), Corsica, and the overseas departments (DOM, i.e. French Guyana, Guadeloupe, Martinique, Reunion, and Mayotte).

As a general rule, a resident company is a company that is incorporated under French commercial laws.

Permanent establishment (PE)

The notion of PE is not defined by the FTC and has been specified by a court case of the French Administrative Supreme Court. The notion of PE refers to an enterprise exploited in France that can be materialised in one of the three following situations:

- Business activity conducted through an establishment (i.e. a fixed business installation operating with some degree of autonomy [e.g. a branch, sales office]).
- Business conducted in France by a dependent agent.
- Existence of a complete commercial cycle in France.

A ruling application can be submitted to the French tax authorities to get confirmation as to whether the presence in France of a foreign corporation is a PE.

Corporate - Other taxes

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Turnover taxes

Turnover taxes are assessed on goods sold and services rendered in France, and operate as VAT. The normal rate is 20%. Sales of certain kinds of medicines and transports of persons are taxable at a 10% reduced rate. Food products, subscription to gas and electricity (under certain circumstances), sales of books, and products and services provided to disabled persons are taxable at a 5% reduced rate. Other specific sales and services are taxable at a 2.1% rate. Exports and certain specific services invoiced to non-French residents are zero-rated.

Business-to-business (B2B) suppliers of services are generally taxable at the location of the customer and not at the location of the supplier. For business-to-consumer (B2C) supplies of services, the place of taxation is generally where the supplier is established.

VAT applies only to taxable persons, partly taxable persons, and non-taxable legal persons that are registered for turnover taxes.

Specific VAT rules apply to leases of transportation equipment; cultural, arts, and sports services; electronic and telecommunication services; and transportations of goods.

Customs duties

Depending on their country of origin, goods may be subject to customs duties. The rules are aligned with the EU customs regulations.

Under certain circumstances, the payment of the duties can be deferred depending on the terms and conditions of the warehousing arrangements.

Excise taxes

Some specific goods are subject to excise duties, notably:

- Alcohol and alcoholic drinks (e.g. wine, beer, ethylic alcohol).
- Processed tobaccos (e.g. cigars, cigarettes, tobacco).
- Oil and gas products.

Real estate tax

All properties located in France are subject to a 3% real estate tax. The tax is assessed annually on the fair market value of the real estate, in proportion to the direct or indirect interest held. All entities in the chain of ownership are jointly liable for the payment of the tax.

Automatic exemptions apply in three situations. First, to entities whose French real estate assets represent less than 50% of their total French assets. Second, to entities listed on a regulated market whose shares, units, or rights are significantly

traded on a regular basis. Third, to entities having their registered office in France, in an EU member state, or in a country that has concluded a DTT with France providing for an administrative assistance or a non-discrimination clause, where:

- their direct or indirect interest in the French real estate is less than either EUR 100,000 or 5% of the fair market value of the French real estate
- they are pension funds or public charities recognised as fulfilling a national interest whose activities justify the need to own French real estate, or
- they are non-listed French real estate funds (*société de placement à prépondérance immobilière à capital variable* [SPPICAV] or *fonds de placement immobilier* [FPI]) or foreign funds subject to equivalent regulations.

Where an automatic exemption does not apply, a claim may be submitted for conditional exemption.

Territorial economic contribution

The territorial economic contribution (*Contribution Economique Territoriale* or CET) is comprised of two different taxes: the companies' land contribution (*Cotisation Foncière des Entreprises* or CFE) and the companies' added value contribution (*Cotisation sur la valeur ajoutée des entreprises* or CVAE). Although they have a similar scope, the taxes are subject to very different rules.

The CFE tax is based on the rental value of assets that are subject to the real estate tax, excluding movable goods and equipment. For industrial plants, the taxable base is reduced by 30%. There is a specific rental value for each town and an upgrading ratio is set forth at the national level each year.

The CVAE is based on a company's added value. Only taxpayers that are not exempt from the CFE and whose turnover is greater than EUR 152,500 are subject to CVAE. However, tax relief equal to the amount of the tax is provided for companies whose turnover is below EUR 500,000. The tax rate for companies whose turnover ranges from EUR 500,000 to EUR 50 million is assessed according to a progressive scale, which ranges from 0% to 1.5%.

There is an upper ceiling on the added value that applies to the CET. As a consequence, tax relief applies and is equal to the excess of the sum of CFE and CVAE over 3% of the added value of the company.

Registration duties

Registrations duties mentioned hereafter are imposed on the purchaser. However, the seller may be liable for these duties in case of non-settlement by the purchaser.

Transfer of goodwill

The transfer of goodwill is subject to a registration duty at a rate of 3% on the part of the transfer price amounting from EUR 23,000 to EUR 200,000 and at a rate of 5% on the part exceeding EUR 200,000.

Transfers of shares

The transfer of shares is subject to registration duty at a rate of 0.1% with no cap. The transfer of listed shares recorded by a deed is subject to registration duty at a rate of 0.1%.

Transfer of interest or quotas in legal entities whose capital is not divided into shares

The transfer of interests or quotas in legal entities whose capital is not divided into shares (e.g. *Société à responsabilité limitée* [SARLs] or *Société en nom collectif* [SNCs], which are a form of private limited liability corporate entity) is subject to a registration duty of 3% with no cap.

Transfer of shares in non-quoted real estate companies

The transfer of shares in non-quoted companies whose assets consist principally of immovable property is subject to a registration duty of 5% with no cap. In case of disposal of shares held in real estate companies, the taxable basis for transfer tax purposes is equal to the fair market value of the real estate assets or rights reduced by the debt contracted for the acquisition of such assets or rights. Other kinds of debts are not taken into account to compute the taxable basis of the transfer tax.

Transfer of real estate

The sale of land and buildings is subject to registration duty at a rate of 5.09% on the transfer price, including expenses.

Exemptions

Several exemptions are added to the list of the transactions that are not subject to transfer duties:

- Transactions subject to the FTT.
- Repurchase by companies of their own shares intended to be sold to the subscribers of a company employee saving plan, with some exceptions.
- Transactions between companies in the same group within the meaning of Article L233-3 of the French Commercial Code.
- Transfer of ownership resulting from a merger, a contribution, or a spin-off made under the provisions of Article 210 A and 210 B of the FTC and acquisition shares of a company by its employees.

Exit tax rules in case of transfer of French head office or establishment

In the case of a transfer of assets outside France as part of a transfer of a head office or an establishment, unrealised gains are immediately taxable. However, in the case of a transfer to an EU member state or, under certain conditions, to a European Economic Area (EEA) member state, taxpayers are able to either pay the full amount of tax immediately or pay it over five years in five equal instalments.

Payroll tax

Companies that are not liable for VAT on at least 90% of their annual turnover are subject to payroll tax (*taxe sur les salaries*) regarding salaries paid during the following calendar year. Companies below the 90% threshold trigger are liable for the payroll tax on the complement of their VAT recovery ratio, called the counter VAT recovery ratio.

The standard rate of the payroll tax is 4.25%, but increased rates apply to gross individual wages that exceed certain thresholds. Those increased rates are:

- 8.5% for wages ranging from EUR 7,924 to EUR 15,822.
- 13.6% for wages in excess of EUR 15,822.

French social security contributions

The French social security system is composed of various schemes providing a wide range of benefits. This system includes social security basic coverage, unemployment benefits, compulsory complementary retirement plans, complementary death/disability coverage, and complementary health coverage.

The contributions are shared between employer and employee; on average the employer's share of contributions represents 45% of the gross salary. For 2019, the employee’s share of French social contributions represents approximately 20% to 23% of the remuneration. However, since the contributions are assessed using various ceilings, the average rate will decrease as the gross salary increases.

Employers' contributions made to additional medical coverage schemes (which are mandatory and collective) are taxable.

Generally, for any employee who carries out a salaried activity in France, the employer withholds the employer's and employee's share of French social security charges.

Systemic risk tax

A bank tax known as a systemic risk tax has been implemented to prevent excessive risk behaviour. This tax is due by certain financial institutions (including credit institutions).

It should be noted that ‘fund’ entities (e.g. hedge funds or securitisation vehicles) are outside the scope of the tax.

French banks are subject to the bank tax on their worldwide business activities. The equity requirements that are used as the taxable basis for the calculation of the bank tax are calculated on a consolidated basis. Therefore, institutions that fall within the scope of the tax and that belong to a consolidated group are not subject to the tax on an individual basis. Where they are not part of such a group, institutions pay a contribution calculated on their individual position. The taxable

basis is made up of the minimum equity required of the institution, as set out by the Prudential Control Authority to meet reserve ratio requirements in accordance with Basel II standards and specified during the previous calendar year.

The rate of the bank tax amounts to 0.141% of the taxable basis in FY18, and any amounts paid in that respect will be deductible for CIT purposes.

A tax return must be filed by 30 June every year, and the tax due must be settled at the same time.

Subject to the principle of reciprocity, it should be noted that taxpayers for which the registered office or the group parent company is located in a country that has enforced a similar tax on systemic risk can benefit from a tax credit. This tax credit can be used to settle the tax due or can be reimbursed.

This tax is not deductible from CIT.

Financial transaction tax (FTT)

FTT applies to acquisitions for consideration of equity securities or similar securities in the meaning of the French Monetary and Financial Code issued by certain French-listed companies (i.e. financial instruments giving access to capital or to voting rights in the company and securities issued under foreign law representing French-eligible securities). FTT applies regardless of whether the transaction is executed inside or outside of France.

The tax is due by the investment service provider (ISP) that has executed the purchase order or, when there is no ISP, by the custodian, irrespective of its place of establishment.

In most cases, the central securities depositary will be in charge of centralising the collection of the tax, the reporting to the French tax authorities, and the payment of the tax to the French Treasury.

The tax is computed based on the acquisition price of the shares.

The FTT rate is equal to 0.3% for acquisitions made on or after 1 January 2017.

Corporate - Branch income

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Tax rates on branch profits are the same as on corporate profits. As a principle, branch profits are deemed to be distributed to the head office. WHT is levied on French branches of non-resident, non-EU corporations at the rate of 30%, to be reduced down to 25% in 2022, or a reduced tax treaty rate (e.g. for the United States [US], 5%), on net profits. Refund (limited or full) of tax may be claimed to the extent that the taxable amount exceeds the dividend(s) actually distributed by the foreign corporation during the 12 months following the close of the fiscal year concerned, or to the extent the dividends are distributed to residents of France.

Profits realised in France by non-resident corporations whose head offices are located in an EU country or in the European Economic Area are not subject to branch WHT, provided that certain conditions are met (e.g. effective head office in an EU country or non-resident corporation subject to corporate taxation).

Corporate - Income determination

Last Reviewed - 16 September 2019

Inventory valuation

Inventories must be valued at the lower of cost or market. Cost must be determined in accordance with the first in first out (FIFO) or the average-cost method. The last in first out (LIFO) method is prohibited.

Capital gains

Capital gains generally are taxable as ordinary income and subject to CIT at the standard rate, regardless of the duration of ownership of the assets sold.

However, under restrictive conditions, a reduced rate of 10% is applied to capital gains on the disposal of patents, industrial processes connected to patents, and software, as well as on income from the licensing of patents industrial processes connected to patents, and software. Capital losses on the disposal of patents, industrial processes linked to patents, and software (either short-term losses or long-terms losses) are tax deductible.

Gains on the sale of shares in subsidiaries held for at least two years benefit from significant relief (88% of such capital gains are excluded from CIT, with the remaining 12% portion being taxed at the standard rate). Long-term capital losses cannot be offset against future long-term capital gains.

The long-term capital gain regime applies notably to capital gains from the disposition of shares benefiting from the parent-subsidiary regime only if the seller holds at least 5% of the voting rights in the entity whose shares are being disposed.

The long-term capital gain regime also applies to capital gains from the disposition of shares in an entity located in a 'non-cooperative state or territory' (NCST), as long as the entity can demonstrate that its activities are real and it does not seek to locate profits in the NCST.

Capital gains and losses on shares sold to a related company

Capital gains derived from the disposal of shares held in subsidiaries for less than two years are immediately taxable at the common rate of CIT.

Capital losses derived from such disposal are not immediately deductible. In such a case, the loss will be deducted if, before a period of two years (as from the date of acquisition by the purchaser):

- the vendor stops being subject to CIT
- the shares are, after a restructuring of the transferee company, held by a company that is not related to the vendor, or
- the shares stop being held by the related company (notably further to a new sale).

If no event mentioned above arises within a period of two years starting from the acquisition by the vendor, the capital loss that has not been immediately deducted is treated in accordance with the long-term regime (i.e. the capital loss is therefore not deductible).

Otherwise, the vendor has to join to its corporate tax return a specific form mentioning capital losses that are not immediately deducted.

Capital gains of non-residents

As a general rule, non-resident companies are not taxable in France regarding capital gains derived from the disposal of French assets unless these are part of a PE.

There are two main exceptions to this principle:

- Capital gains derived from the disposal of real estate assets located in France or derived from the disposal of French real estate,and of non-listed corporations.
- Capital gains derived from the disposal of shares held in a French company subject to CIT are subject in France to WHT in the specific case where the seller has owned, at any point in time during the five years preceding the sale, at least 25% of the rights in the profits of the French company, unless provided otherwise by the DTT applicable, if any.

Note that in the specific case where the non-resident company is located in an NCST, all capital gains derived from the disposal of French assets are subject to WHT in France at a specific rate of 75%.

Dividend income

Dividends generally are taxable as ordinary income and subject to CIT at the standard rate.

For information on the taxation of inter-company dividends, see Participation-exemption regime in the Group taxation section.

Interest income

Interest income generally is taxable as ordinary income and subject to CIT at the standard rate.

Royalty income

A reduced tax rate of 10% applies under restrictive conditions to capital gains on proceeds from the:

- licensing (or sub-licensing) of patents, industrial processes linked to patents, and software held for at least two years, subject to certain conditions, and
- sale of patents, industrial processes linked to patents, and software held for at least two years, subject to certain conditions.

As mentioned above, the income subject to this patent box regime is a net income (gross minus related R&D expenses and after application of a nexus ratio). Detailed comments are still not published.

In other cases, royalties are subject to CIT at the standard rate (plus additional social contribution if relevant).

Foreign income

Resident corporations are not taxed on foreign-source income derived from activities carried out abroad through foreign branches and foreign PEs. Other foreign income is not taxable until actually repatriated to French-resident corporations. As a result, undistributed income of foreign subsidiaries is not taxable. The only exception to the territoriality principle is provided by Article 209 B of the FTC, known as the Controlled Foreign Company (CFC) rules (*see the Group taxation section for more information*).

Corporate - Deductions

Last Reviewed - 16 September 2019

Depreciation

The depreciation of fixed assets has to be carried out component by component. The components of a fixed asset have to be depreciated separately according to their own lifetime.

Declining-balance depreciation is allowed for certain new and renovated assets whose useful life is in excess of three years.

For assets bought or manufactured between 4 December 2008 and 31 December 2009, the rate is computed by multiplying the rate of straight-line depreciation by:

- 1.75, if the useful life of the asset is three or four years
- 2.25, if the useful life of the asset is five or six years, or
- 2.75, if the useful life of the asset is more than six years.

For assets bought or manufactured after 31 December 2009, the rate is computed by multiplying the rate of straight-line depreciation by:

- 1.25, if the useful life of the asset is three or four years
- 1.75, if the useful life of the asset is five or six years, or
- 2.25, if the useful life of the asset is more than six years.

A temporary investment incentive measure was introduced by the Finance Bill for 2016, enabling companies to claim an additional deduction equal to 40% of the asset investment, provided the investment meets the following three conditions:

- Conditions of the fiscal special depreciation regime (i.e. a new asset having a minimum useful life of three years).
- Belonging to some limited categories defined by the government (industrial assets, such as plant machinery and equipment, manufacturing equipment, and research operations fittings).
- Investments made between 15 April 2015 and 14 April 2016.

The Finance Bill for 2017 extended this incentive measure to companies that invest under the following three conditions:

- The investment has been firmly decided before 15 April 2017.
- The investing company has paid, before 15 April 2017, an instalment that amounts to at least 10% of the total investment cost.
- The final acquisition of the investment occurs within a two-year period following the date of beginning of the purchase order.

Special depreciation rules have been enacted for 'green' road transportation equipment. Said rules apply until 31 December 2021.

With the aim to facilitate the digitalisation of the French economy, exceptional depreciation rules apply as of 1 January 2019 to investment in robots, 3D printers, and other digital based equipment.

A special depreciation regime is also available for green shipping in relation with investment made between 1 January 2019 and 31 December 2021.

Goodwill

Under current French tax rules, goodwill (e.g. *clientele*, trademarks) cannot be amortised.

Start-up expenses

No specific rules apply regarding deduction of start-up expenses, except the qualified expenses incurred in establishing the company (so called '*frais d'établissement*'), which can be either deducted or depreciated over five years.

Research and development (R&D) and software expenses

Concerning R&D and software expenses, a business may elect to immediately deduct costs incurred in R&D of software or to amortise their cost on a straight-line basis over a maximum period of five years.

The cost of acquiring software may be written off on a straight-line basis over 12 months.

The cost of patents acquired can be amortised over a five-year period.

Interest expenses

Interest expenses are tax deductible but subject to various limitations applicable to all loans or to related-party loans.

Restriction of interest deduction

A test is applicable to the existing rules governing interest deductions for financing by a party that is directly or indirectly related to a French borrower.

Interest deductions are allowed only if the French borrower demonstrates that the lender is, for the current financial year, subject to a CIT on the interest that equals 25% or more of the CIT that would be due under French tax rules. When the lender is domiciled or established outside of France, the CIT determined under French law equals the tax liability that the lender would have owed on the interest had it been resident or domiciled in France.

Taxpayers must provide documentation to support the CIT calculation if requested by the French tax authorities.

Furthermore, the interest rate is capped to a specific rate defined by the FTC, or a higher rate if the taxpayer can demonstrate that the market rate applicable to its situation would be higher than the rate provided by the FTC.

'Carrez' rule

The '*Carrez*' rule was anti-abuse legislation preventing interest deductions in France relating to French or foreign participations acquired by a French entity but effectively managed outside France.

This restriction no longer applies to financial years opened as of 1 January 2019.

Additional limits on interest deductions

The deduction of financial charges is provided by general and specific rules applicable to related parties financing. .

The net financial expenses incurred in a given year are deductible only if they do not exceed the higher of the two following thresholds:

- EUR 3 million.
- 30% of the adjusted taxable income of the taxpayer (i.e. EBITDA).

Financial expenses and income used to determine the net amount referred to above include, *inter alia*, amounts that are accrued in remuneration for monies put at the disposal of or by the taxpayer. They include, but are not limited to:

- Payments under participating loans.
- Imputed interest on financial instruments (e.g. convertible bonds).
- Notional interest amounts under derivative instruments or hedging arrangements.
- Certain foreign-exchange gains and losses.
- Guarantee fees for financing arrangements, arrangement fees, and similar costs related to the borrowing of funds.

The adjusted taxable income corresponds to the taxable income before the offset of tax losses and without taking into consideration net financial expenses and, to some extent, depreciation, provisions, and capital gains and losses. 75% of the net financial expenses exceeding the threshold is tax deductible, provided that the equity-to-asset ratio of the company is at least equal to, or is not lower by more than two percentage points, the equity-to-asset ratio of the consolidated group to which it belongs.

Non-deductible financial expenses of a given year are carried forward indefinitely within the above-mentioned limits. Unused interest deduction capacity of a given financial year can be carried forward for up to five years.

Thin capitalisation

Please see comments regarding thin capitalisation in the Group taxation section.

Bad debt

Bad debts that are definitively non-recoverable are treated, from a tax point of view, as deductible charges.

Under certain conditions, a tax-deductible reserve can be established for debts whose collection is uncertain.

Charitable donations

Charitable donations made by companies to certain foundations or societies are deductible at up to 60% of their amount (limited to EUR 5,000 of the turnover before taxes).

Fines and penalties

As a general principle, fines and penalties are not tax deductible for CIT purposes.

Taxes

Most taxes, including unrecoverable turnover taxes, registration duties, and CET, are deductible. The major exceptions are CIT and tax penalties, which are never deductible.

CIT losses

Carryforward of tax losses

Tax losses carried forward are available to offset the first EUR 1 million of taxable profits and 50% of taxable profits in excess of this.

The carryforward is conditional to certain limitations, namely that the entity continues the same business activities. The FTC provides criteria for measuring such a change of activity that jeopardises the right to carry forward net operating

losses.

Under certain circumstances, a ruling can be obtained from the French tax authorities to keep all or part of the net operating losses despite a business reorganisation.

Carryback of tax losses

Tax losses are available for carryback to the fiscal year immediately preceding that in which the losses arise and up to a maximum of EUR 1 million. Any unused surplus will be carried forward and used as set out above. In addition, the election to carry back tax losses must be filed prior to the deadline for submission of the tax return for the loss-making period.

Tax groups

The overall tax losses of a French tax group, as well as pre-election tax losses of the individual members of the group, will be attributed, whether carried forward or carried back, in the same manner and within the same limits as those set out above.

Payments to foreign-related parties

Unless otherwise provided by the FTC, payments to foreign affiliates are deductible from the CIT basis as long as they meet the arm's-length test. If they do not, Article 57 of the FTC provides that income directly or indirectly transferred to the foreign-related parties, through either the increase or the reduction of the purchase or sales price of goods and services, or through any other means, must be added back to taxable income. For the purpose of this provision, foreign-related parties are defined as a parent, subsidiaries, or sister companies.

Where the payments are made to companies located in a country with a privileged tax regime, the French taxpayer must prove, in addition, that the transaction is *bona fide* and that the amount due is not exaggerated (*see the Group taxation section for more information on countries with a privileged tax regime*).

Royalties

The FTC restricts the conditions for deducting licensing royalties where the licensor and the licensee are related parties. The deduction will not be possible if the related-party beneficiary is not liable to an effective tax rate of at least 25% on this income.

Corporate - Group taxation

Last Reviewed - 16 September 2019

Tax consolidation regime

French corporations and their 95% owned domestic subsidiaries may elect to file one single tax return, thus allowing the offset of losses of one group corporation against the profits of a related corporation. CIT is then levied on the aggregate income after certain adjustments for intra-group provisions (e.g. debt waivers, dividend distributions) have been made.

When shares in a company that will be tax consolidated into the group are acquired by a group company from individuals or legal entities that control this group, either directly or indirectly, a portion of the group's overall financial expense incurred by the members of the group is progressively added back to the group's taxable income on a straight-line basis over a nine-year period.

A French subsidiary can be included in a tax consolidated group even if its parent company is not located in France. However, at least 95% of the share capital of the foreign company must be held, directly or indirectly, by the French company that is head of the tax consolidated group. In addition, the foreign company must be subject to CIT, be located in the European Union or in a member state of the European Economic Area whose tax treaty with France includes a mutual administrative assistance clause to fight tax fraud and tax evasion, and hold 95% of the lower-tier subsidiary's shares.

Amending Finance Bill for 2014 adds the opportunity for the companies subject to CIT to adopt horizontal tax consolidation. The creation of a horizontal tax consolidation between French companies' subsidiaries of the same parent located in an EU member state, or Iceland, Norway, and Liechtenstein, and subject to a tax equivalent to CIT ('non-resident parent entity') is now permitted, allowing one of its subsidiaries (called 'parent company') to be solely liable for CIT. This regime applies, optionally, for fiscal years beginning on or after 1 January 2015.

A PE of a foreign company subject to French CIT can be a member of a French tax consolidated group if the shares of the foreign company are held by other French companies, which are members of the consolidated group.

Dividends distributed within a tax consolidated group under the parent-subsidiary regime are exempt up to 99%, and the remaining 1% may not be neutralised.

Allocation of the tax charge within a tax consolidated group

In an important decision dated 12 March 2010 ('Wolseley Centers France'), the French Supreme Court disagreed with the French tax authorities by ruling that the tax charge of the group can be freely allocated between members of the consolidated tax group.

Following this decision, group companies are free to enter into a tax consolidation agreement stating the conditions for the allocation of the group tax charge or, where applicable, the tax savings arising from the group arrangement.

The Supreme Court concludes that since the terms of an agreement to allow a re-allocation take into account the specific results of each of the group companies, the terms of this re-allocation cannot be regarded as an indirect subsidy. However, this allocation should neither undermine the corporate benefit of each group member nor the minority shareholders rights; otherwise, this will result in an abnormal act of management.

Cancellation of the neutralisation of intra-group debt waivers and subsidies

When determining the consolidated taxable basis debt wavers, direct and indirect subsidies granted between tax consolidated entities are no longer neutralised. In other words, they are taken into account in the tax basis.

Transactions at cost among consolidated entities

The 2019 Finance Act provides that goods and services sold at a lower price than the arm's-length one but higher than their cost of goods or cost of service do not qualify as indirect subsidies and thus never create a tax event within tax consolidation.

Participation-exemption regime

French parent companies (i.e. companies incorporated in France and holding qualifying shares that represent at least 5% of the issued capital of subsidiaries, French or foreign) have the option of excluding 95% of the subsidiaries' net dividends from CIT (5%, reduced to 1% in certain circumstances, of charges and expenses must be added back to the parent company's taxable results). The French parent-subsidiary regime extends to certain shares without voting rights. There is no formal commitment to have held the shares for at least two years, and companies can benefit from this regime from the acquisition date of the shares. However, the obligation remains to hold the shares over this two-year period. Certain shares of listed real estate companies are not eligible to the French parent-subsidiary regime.

The taxation of dividends received by a parent company from its subsidiary cannot be capped at the amount of the expenses actually incurred by the parent company. Thus, the tax liability will be equal to 5% (or 1%) of the dividends received, tax credits included.

The French parent-subsidiary regime is not applicable to dividends paid from entities located in an NCST.

In principle, the subsidiary's shares must be kept by the parent company for at least two years in order to benefit from the participation-exemption regime. However, some operations lead to a break of the two-year holding period. In that case, the exchanged shares are deemed withheld until the sale of the securities received in exchange.

The exchanged shares will be deemed kept for the application of the participation-exemption regime only if the gain or loss is not taken into account in the result of that exchange. If the gain or loss is included in the result, the dividends received may not benefit from the participation-exemption regime and will be taxed.

In addition to the above, the 2016 Act repealed the exclusion from the benefit of the parent-subsidiary regime for the dividends received on shares with no voting rights retroactive to 3 February 2016.

In case of tax consolidated group

There is a 99% exemption on dividends received by a member of a tax group from:

- another member of the same group or
- a company:
  - subject to a tax equivalent to French CIT in another member state, or in an EEA member state that has concluded an administrative assistance agreement with France to fight against tax fraud and tax evasion, and
  - that fulfils the conditions to participate in a French tax consolidated group if it is established in France (other than being subject to CIT in France).

Distribution followed by absorption or sale of subsidiary

The FTC prevents the possibility for a company to accumulate the exemption of dividends received from its subsidiaries (under the participation-exemption regime or the tax consolidation regime) and the deduction of a loss in value resulting from the dividends' distribution due to previous distributions at the time of the securities exchange or sale of shares.

Transfer pricing

Upon tax audit, companies whose gross assets exceed EUR 400 million, have a turnover that exceeds a specific threshold (EUR 152.4 million or EUR 76.2 million, depending on the activity of the company), or that are part of a group that meet those criteria, and assuming they have management accounts or consolidated accounts, have to provide the French tax administration with analytical and consolidated accounts.

Identically, rulings granted by foreign tax authorities have to be part of the transfer pricing documentation.

It is not possible to defer the collection of CIT reassessed when a mutual agreement procedure is launched.

Transfer pricing documentation

Large corporations located in France (i.e. with annual turnover or amount of gross assets in excess of EUR 400 million) are required to provide documentation containing general information regarding the relevant group of companies, including main activities, operational and legal structures of the related companies, functions performed and risks borne, main intangible assets, and group transfer pricing policy, amongst others.

Advanced pricing agreements (APAs)

APAs are available for taxpayers only on the basis of international agreements entered into in accordance with Article 25 of the OECD Model Tax Convention. Currently, taxpayers are also allowed to enter into APAs with the French tax authorities on a unilateral basis. In practice, taxpayers are entitled to submit their transfer pricing policy to the French tax authorities. Agreement of the tax authorities to the APA precludes a later challenge as long as facts and circumstances described in the APA and actual ones are identical.

Light French transfer pricing annual reporting obligation

All French entities with turnover or gross assets on the balance sheet exceeding EUR 50 million, or with more than 50% direct or indirect shareholder or subsidiary interest meeting this threshold, are also subject to the light but annual French transfer pricing documentation requirements.

French companies subject to these transfer pricing obligations must file Form 2257 no later than six months after the deadline to file the annual CIT return with the tax authorities.

Form 2257 discloses general information related to the consolidated group (i.e. activities performed, group transfer pricing policy, country of location of intangibles, etc.). The form also includes specific information on the French entity (i.e. aggregated amounts of inter-company transactions exceeding EUR 100,000, main transfer pricing method used for each kind of transaction, etc.).

The 2016 Finance Act introduced two main changes:

- Electronic filing of Form 2257.
- If the relevant French entities are members of a French fiscal unity (consolidated group), Form 2257 must be filed by the head company of the French fiscal unity on behalf of the entire consolidated tax group.

Country-by-country (CbC) reporting

To align with recommendations of the OECD and the G20 BEPS Initiative (Action 13), France has introduced CbC reporting for multinational corporations, applicable to tax years beginning on or after 1 January 2016. The annual obligation requires multinational corporations to file with the French tax authorities anytime within the 12 months following their fiscal year-end a CbC report disclosing information regarding the name, activities, and profits of foreign entities in the same group.

French entities are subject to the CbC reporting requirement if they:

- establish consolidated accounts
- directly or indirectly hold or control one or several legal entities established abroad, or have foreign branches
- generate annual consolidated group revenue of at least EUR 750 million, and
- are not held by one or several legal entities established in France already subject to the French CbC reporting requirement, or by legal entities established abroad that are subject to similar CbC reporting requirements pursuant to foreign legislation.

The French government publishes a list of states or territories that have implemented a similar CbC reporting requirement, have concluded an automatic exchange of information agreement with France, and comply with this agreement.

An entity established in France is also subject to the French CbC reporting requirement when that French entity is held, directly or indirectly, by a legal entity established in a foreign state or territory that would have been subject to the CbC reporting requirement if established in France when:

- the French entity is designated by the consolidated group to perform the CbC reporting obligation for that group, and the French tax authorities have been informed of that designation, or
- the French entity is not able to demonstrate that any other entity of the group, either established in France or in a listed state or territory, has been designated to perform the CbC reporting for the group.

Failure to provide the French tax authorities with complete CbC reporting will result in a penalty of up to EUR 100,000.

Thin capitalisation

Interest accrued by a French corporation in relation with borrowings from its direct shareholders may be deducted if the following two conditions are met:

- The share capital of the borrower is fully paid-up.
- The interest rate does not exceed the average interest rate on loans with an initial duration of more than two years granted by banks to French companies or a higher rate if it can be demonstrated that this rate would be at arm's length.

For financial years beginning on or after 1 January 2019, in line with the implementation of the ATAD 1 rules in France, deduction is further limited.

Related-party interest charges are tax-deductible only if they are at arm’s-length and if the lender meets a minimal taxation test as referred to below.

Under the arm’s-length test, the deductible interest rate is limited to the higher of:

- The average annual interest rate on loans granted by financial institutions that carry a floating rate and have a minimum term of two years.

- The interest rate at which the company could have borrowed from any unrelated financial institution, such as a bank, in similar circumstances (i.e. the market rate).

The portion of interest that exceeds the higher of the above two thresholds is not tax-deductible and must be added back to taxable income for the relevant financial year (this portion is furthermore deemed distributed).

Under this minimal taxation test, the tax deduction of interest accrued to related parties is disallowed if the French taxpayer cannot prove that the related party is subject to tax on such interest at least equal to 25% of the CIT that is/would have been payable in France had the lender been taxable in France.

For taxpayers considered to be thinly capitalised (i.e. where the related-party debt-to-equity ratio exceeds 1:5), the portion of deductible financial expenses is determined based on the following limitations:

- External debt: The 30% EBITDA test applies to the interest charges derived from external debt, determined as being the total interest multiplied by the amounts put at the disposal of the taxpayer by third parties increased by 5 x equity/total amounts put at the disposal of the corporation.
- Related-party debt: Interest on related\-party debt will be subject to stricter rules, with a 10% of tax EBITDA limitation applying to interest charges derived from related-party debt, calculated as being the total interest multiplied by the amounts put at the disposal of the corporation by related parties/total amounts put at the disposal of the corporation.

For a tax-consolidated group, the limitation rule based on a portion of the adjusted taxable income applies at the level of the group.

Special thin capitalisation rules for tax consolidated groups

A member of the tax consolidation may benefit under restrictive conditions of an extra interest charge deduction when the ratio of the consolidated group is higher than its own one.

Controlled foreign companies (CFCs)

The CFC rules provide that:

- French corporations are required to include in their taxable income profits made by their more than 50% owned foreign subsidiaries and branches. The 50% holding is determined by direct and indirect control of shares and voting rights.
- The minimum holding threshold has to be reduced to 5% if over 50% of the share capital of the foreign entity is indirectly held through French or foreign companies controlled by the French parent company. However, if the shares in the foreign entity are listed on a regulated market, the French tax authorities will have to demonstrate that the French parent company, together with other entities holding shares in such foreign entity, is acting in concert.
- The CFC rules are only applicable if the foreign legal entity or PE in which the French company owns the requisite percentage of shares is in a country with a privileged tax regime. A privileged tax regime is defined by the FTC as a tax regime in which a foreign jurisdiction subjects taxable income of a foreign entity to at least 50% or lower of the income tax liability that would have been incurred in France, had the activity of the foreign entity been performed in France.
- Profits of the foreign entity that fall under the CFC rules are no longer taxed separately. They are now aggregated with the other taxable profits of the French parent company. Consequently, any tax losses incurred by the French parent company may be offset against the foreign entity's profits.
- The French parent company can avoid the application of the CFC rules if it demonstrates that the foreign entity carries an effective trading or manufacturing activity, conducted from its country of establishment or registered office. Furthermore, the CFC rules, in principle, are not applicable with respect of foreign branches or subsidiaries located in another EU country. However, this exception is not applicable if the French tax authorities can demonstrate that the foreign entity located in another EU country constitutes an artificial arrangement, set up to circumvent French tax legislation. This concept is similar to the 'abuse of law' concept, although it does not have all the same characteristics.

Corporate - Tax credits and incentives

Last Reviewed - 16 September 2019

Foreign tax credit

Under DTTs signed by France, several methods have been established to avoid double taxation. The main one is the traditional deduction of a tax credit from tax effectively paid. However, some treaties establish a tax exemption or the exclusive right to tax. Also, a tax-sparing clause is included in some treaties, which allows for the deduction of not only the tax actually paid but a higher amount of tax.

Tax credit to boost competitiveness and employment

To improve the competitiveness of the French economy and reduce employment costs, France has a tax credit that is available to French and foreign enterprises subject to CIT in France.

Partnerships will pass their tax credit through to their partners, provided the partners are subject to French tax.

There are no requirements regarding the nature of the activity carried out in France.

The tax credit is calculated as a percentage of the wages paid during the calendar year to employees receiving less than 2.5 times the French regulated minimum wage (SMIC).

The current gross monthly SMIC is EUR 1,498.47. For wages paid on or after 1 January 2018, the 2018 Act reduces the CICE tax credit rate from 7% to 6%.

For wages paid on or after 1 January 2019, the CICE tax credit is repealed and replaced by a permanent decrease in payroll charges paid by employers to finance the French social security system.

The tax credit can be offset against the CIT liability payable by the taxpayer with respect to the calendar year during which the wages are paid. Any excess credit can be carried forward and offset against the tax liability of the taxpayer during the next three years.

Credits unused after three years will be refunded to the taxpayer. The 'receivable' (unused credits) can be transferred or sold only to credit institutions. Finally, special provisions apply in the case of mergers and assimilated restructuring operations.

R&D tax credit

The R&D tax credit is determined on the basis of the eligible R&D expenses incurred during the calendar year.

Currently, the R&D credit equals 30% of the R&D eligible expenses incurred during the year, up to EUR 100 million in eligible R&D expenses, and 5% beyond this amount.

The FTC classifies eligible technical and scientific research operations in three areas: fundamental research, applied research, and experimental development.

The eligible expenditures mainly include the following:

- Tax deductible depreciation expenses relating to fixed assets, created or acquired newly, assigned to eligible R&D works/projects, including patents acquired.
- Costs relating to staff qualifying as scientists and/or engineers (staff costs relating to ‘young graduate doctors’ are retained at up to 200% during the 24 months following their hiring by the company).
- Expenses resulting from outsourced R&D works/projects under restrictive conditions.
- Expenses incurred for patent registration and/or in connection with the defence of patents.
- Expenses relating to the monitoring of technical developments.
- Premiums paid in connection with insurance contracts relating to the legal defence of patents.

Salaries for research staff are fully taken into account. Operating costs are taken into account by retaining 50% of the R&D staff costs plus 75% of the depreciation on the assets allocated to the research.

Research expenditure sub-contracted to public research bodies, private research organisations approved by the minister with responsibility for research, or scientific/technical experts who have been approved under the same conditions are fully taken into account. The expenditure incurred must be for the purpose of carrying out genuine, clearly-specified R&D projects. If the company and the research body are unrelated, expenditure sub-contracted to public research bodies shall count for double of their amount.

Also, spending on outsourcing to private research organisations is included in the limit of three times the total amount of other research expenses qualifying for the tax credit.

The total amount of expenditure sub-contracted is capped at EUR 10 million (or EUR 12 million depending on the status of sub-contractors) in cases where sub-contractors are unrelated and to EUR 2 million in the contrary case.

Inbound investment incentives

No particular incentives are available to foreign investors in France. However, the government offers a comprehensive programme of tax incentives and development subsidies to encourage investment in underdeveloped areas.

Capital investment is encouraged through the declining-balance method of depreciation as well as through exceptional depreciation for certain capital expenditures.

Corporate - Withholding taxes

Last Reviewed - 16 September 2019

Payments to resident corporations and individuals are not subject to WHT.

Payments to non-resident corporations and individuals are subject to WHT, *as shown below*.

In a decision given on 9 November 2015, the French Administrative Supreme Court ruled that a person who is exempt from tax in a contracting state by reason of one's status or activity cannot be considered liable to taxation and, consequently, is not a resident of the contracting state under the DTT if the treaty defines a 'resident' as a person who is liable to tax in a contracting state.

	Dividend WHT (%)		
Column 1	**Column 2**	**Column 3**	**Column 4**
Country of residence	**Individuals and non-parent companies**	**Parent companies**	**Shareholding required to be a parent**
Non-treaty	21/30 (37)	30	-
Treaty:			
Algeria	15	5	10
Argentina	15	15	-
Armenia	15	5	10
Australia	15	0	10
Austria	15	0	10
Bahrain	0	0	-
Bangladesh	15	10	10

	Dividend WHT (%)		
Column 1	Column 2	Column 3	Column 4
Country of residence	Individuals and non-parent companies	Parent companies	Shareholding required to be a parent
Belgium	15	0 (1)	10
Benin	30	30	-
Bolivia	15	15	-
Botswana	12	5	25
Brazil	15	15 (2)	-
Bulgaria	15	0/5 (1)	10/15
Burkina Faso	15 (19)	30 (2)	-
Cameroon	15	15	-
Canada	15	5	10
Central African Republic	15	5	10
China	10	10	-
Comoro Islands (Mayotte)	15/25	15/25	-
Congo, Republic of	20	15	10
Croatia	15	0	10
Cyprus	15	0/10 (1)	10
Czech Republic	10	0 (1)	10
Ecuador	15	15	-
Egypt	0	0	-
Estonia	15	0/5 (1)	10
Finland	0/15	0/5 (1)	10
Gabon	15	15	-
Georgia	10	0/5/10	10/50
Germany	15	0 (3)	10
Ghana	15	5	10
Greece	21/30 (37)	0/30 (1)	10

	Dividend WHT (%)		
Column 1	**Column 2**	**Column 3**	**Column 4**
Country of residence	**Individuals and non-parent companies**	**Parent companies**	**Shareholding required to be a parent**
Hong Kong	10	10	-
Hungary	15	0/5 (1)	10
Iceland	15	0/5 (1)	10
India	10	10	-
Indonesia	15	10	25
Iran	20	15	25
Ireland, Republic of	15	0/10 (1)	10/50
Israel	15	5	10
Italy	15	0/5/15 (1)	10
Ivory Coast	15	15	-
Jamaica	15	15	10
Japan	10	5	10
Jordan	15	5	10
Kazakhstan	15	5	10
Kenya	10	10	-
Korea, Republic of	15	10	10
Kuwait	0	0	-
Latvia	15	0/5 (1)	10
Lebanon	0	0	-
Lithuania	15	0/5 (1)	10
Luxembourg	15	0/5 (1)	10/25
Holding company (4)	30	30	-
Macedonia	15	0	10
Madagascar	25	15	25
Malawi	30	30	-
Malaysia	15	5	10

	Dividend WHT (%)		
Column 1	**Column 2**	**Column 3**	**Column 4**
Country of residence	**Individuals and non-parent companies**	**Parent companies**	**Shareholding required to be a parent**
Mali	15/30	30 (2)	-
Malta	15	0 (1)	10
Mauritania	30	30	-
Mauritius	15	5	10
Mayotte	30	25 (2, 5)	-
Mexico	15	0/5	5/10
Monaco	25	25	10
Mongolia	15	5	10
Morocco	0/15	0/15 (6)	-
Namibia	15	5	10
Netherlands	15	0/5 (1)	10/25
New Caledonia	15	5 (35)	-
New Zealand	15	15	-
Niger	25	-	-
Nigeria	15	12.5 (35)	10
Norway	15	0 (1)	10
Oman	0	0	-
Pakistan	15	10	10
Philippines	15	10 (35)	10 (36)
Poland	15	5	10
Polynesia, French	30	30	25
Portugal	15	0/5 (1)	10
Qatar	0	0	-
Romania	10	0 (1)	10
Russia	15	5/10/15 (7)	-
Russian Federation	15	5	10

	Dividend WHT (%)		
Column 1	**Column 2**	**Column 3**	**Column 4**
Country of residence	**Individuals and non-parent companies**	**Parent companies**	**Shareholding required to be a parent**
St. Pierre & Miquelon	15	5	-
Saudi Arabia	0	0	-
Senegal	15	15	-
Singapore	15	10	10
Slovakia	10	0/10 (1)	20
South Africa	15	5	10
Spain	15	0	10
Sri Lanka	30	30	-
Sweden	15	0/15 (1)	10
Switzerland (8)			
A (9)	15	0 (8)	10 (8)
B (10)	15 (8)	0/15 (8)	10 (8)
C (11)	30	30	-
Thailand	20	15	25
Togo	15/30	25 (2)	-
Trinidad and Tobago	15	10	10
Tunisia	30	30	-
Turkey	20	15	-
Ukraine (12)	15	0/5	10/50
United Arab Emirates	0	0	-
United Kingdom	15	0/5 (1)	10
United States	15	0/5	10/80
Uzbekistan	10	5	10
Venezuela	15	0/5	10
Vietnam	15	5	10

	Dividend WHT (%)		
Column 1	Column 2	Column 3	Column 4
Country of residence	Individuals and non-parent companies	Parent companies	Shareholding required to be a parent
Zambia	30	30	50
Zimbabwe	15	10	25

	WHT (%)		
	Interest	Royalties	Distributions
Column 1	Column 5	Column 6	Column 7
Country of residence	For instruments other than borrowings		Automatically levied on after-tax profits of PEs
Non-treaty (13, 14, 15)	0 (16)	33.33	25
Treaty:			
Algeria	0	5/10 (33)	0
Argentina	0	18	5
Armenia	0	5/10 (33)	5
Australia	0	5	15
Austria	0	0	0
Bahrain	0	0	25
Bangladesh	0	10	15
Belgium	0	0	0/10 (22)
Benin	0	0	25 (17)
Bolivia	0	15	0
Botswana	0	10	5
Brazil	0	10/15/25 (18)	15
Bulgaria	0	0/5 (38)	0/5 (22)
Burkina Faso	0	0	25 (17)
Cameroon	0	15 (19)	15
Canada	0	10 (19)	5

	WHT (%)		
	Interest	Royalties	Distributions
Column 1	Column 5	Column 6	Column 7
Country of residence	For instruments other than borrowings		Automatically levied on after-tax profits of PEs
Quebec	0	10	5
Central African Republic	0	0	25 (17)
China	0	6/10 (20)	0
Comoro Islands (Mayotte)	0	33.33	25 (17)
Congo, Republic of	0	15	15
Croatia	0	0	0
Cyprus	0	0 (21, 38)	0/10 (22)
Czech Republic	0	0/5/10 (23, 34, 38)	0 (22)
Ecuador	0	15	15
Egypt	0	15	0
Estonia	0	0/5/10 (34, 38)	0
Finland	0	0	0/15 (22)
Gabon	0	10	0
Georgia	0	0	0
Germany	0	0	0
Ghana	0	10	0
Greece	0	0/5 (38)	0/25 (22)
Hong Kong	0	10	10
Hungary	0	0	0/5 (22)
Iceland	0	0	5
India	0	0	0
Indonesia	0	10	10
Iran	0	10	15
Ireland, Republic of	0	0	0/25 (22)

	WHT (%)		
	Interest	Royalties	Distributions
Column 1	Column 5	Column 6	Column 7
Country of residence	For instruments other than borrowings		Automatically levied on after-tax profits of PEs
Israel	0	0/10 (19, 21)	5/10
Italy	0	0/5 (23, 38)	0
Ivory Coast	0	0/10 (24)	0
Jamaica	0	10	10
Japan	0	0	0
Jordan	0	5/15/25 (18)	5
Kazakhstan	0	10	5
Kenya	12	10	25
Korea, Republic of	0	10	5
Kuwait	0	0	25
Latvia	0	0/5/10 (34, 38)	0
Lebanon	0	33.33	25
Lithuania	0	0/5/10 (34, 38)	0
Luxembourg	0	0	0/5 (22)
Holding company (4)	10 to 15	33.33	25
Macedonia	0	0	0
Madagascar	0	10/15 (25, 26)	25
Malawi	0	0/33.33 (19)	10
Malaysia	0	10 (26)	15
Mali	0	0	25 (17)
Malta	0	0/10 (23, 38)	0/10 (22)
Mauritania	0	0	25 (17)
Mauritius	0	0/15 (23)	15
Mayotte	0	0	25 (17)
Mexico	0	10 (20, 23)	0

	WHT (%)		
	Interest	Royalties	Distributions
Column 1	Column 5	Column 6	Column 7
Country of residence	For instruments other than borrowings		Automatically levied on after-tax profits of PEs
Monaco	0	33.33	25
Mongolia	0	5 (23)	0
Morocco	0	5/10 (27)	0
Namibia	0	10 (23)	0
Netherlands	0	0	0
New Caledonia	0	10 (23)	10
New Zealand	0	10	15
Niger	0	0	25 (17)
Nigeria	0	12.5	25
Norway	0	0	0
Oman	0	7	25
Pakistan	0	10	0
Philippines	0/15/50	15	10
Poland	0	0/10 (23)	25
Polynesia, French	0	33.33	25 (17)
Portugal	0	0/5 (38)	0/15 (22)
Qatar	0	0	25
Romania	0	0/10 (38)	0/10 (22)
Russia	0	0	0
Russian Federation	0	0	25
St. Pierre & Miquelon	0	10 (23)	10
Saudi Arabia	0	0	25
Senegal	0	0	0
Singapore	0	0	5
Slovakia	0	0/5 (23)	10

	WHT (%)		
	Interest	Royalties	Distributions
Column 1	Column 5	Column 6	Column 7
Country of residence	For instruments other than borrowings		Automatically levied on after-tax profits of PEs
South Africa	0	0	0
Spain	0	0/5 (29, 38)	0
Sri Lanka	0	0/10 (30)	25
Sweden	0	0	0 (22, 23)
Switzerland (8)			
A (9)	0	0/5 (8, 31)	0 (8)
B (10)	0	0/5 (8, 31)	0 (8)
C (11)	0	33.33	0 (8)
Thailand	0	5/15 (28)	25
Togo	0	0	25 (17)
Trinidad and Tobago	0	0/10 (20)	10
Tunisia	0	5/15/20 (32)	25 (17)
Turkey	0	10	7.5
Ukraine	0	0/10	25
United Arab Emirates	0	0	0
United Kingdom	0	0	0 (22)
United States	0	0	5
Uzbekistan	0	0	0
Venezuela	0	5	0
Vietnam	0	10	0
Zambia	0	0/33.33 (19)	10
Zimbabwe	0	10	0

Explanation of columns

Column 2: Individuals and companies not qualifying as parents are subject to the WHT rates for dividends as indicated in this column.

Columns 3 and 4: Column 3 indicates the WHT rate for dividends paid to a foreign ‘parent’ company. To be considered as a parent company, the foreign company must hold a specified percentage of the French company’s share capital or

voting rights. These minimum percentages range from 0% to 50%, as indicated in Column 4, and certain other conditions must be met (*see each treaty*). If no percentage is indicated, either no minimum shareholding is required or the tax treaty does not reduce the WHT rate of 30%.

No WHT is levied on dividends paid by a French company to an EU parent or to a parent company of Iceland, Liechtenstein, or Norway that is subject to CIT, provided all the following conditions are met:

- The parent company has held a minimum percentage of the share capital of the distributing company, directly and continuously, for at least two years. As of 1 January 2009, the participation required is 10%.
- The parent company is the effective beneficiary of the dividends.
- The parent company has its effective seat of management in an EU state and is not deemed to be domiciled outside the European Union under an applicable tax treaty.
- The parent company is one of the legal forms enumerated by the relevant Directive.
- The parent company is subject to CIT in the member state where it has its effective seat of management.
- There is an anti-avoidance rule.

Column 5: The tax mechanism has been changed so as to exempt the interest from WHT in France except where the interest is paid to an entity established in a non-cooperative state or territory (WHT at a rate of 75% applicable). The payer can, however, be exempt if one proves that the main purpose and effect of such a payment is not to take advantage of locating the income in such a jurisdiction.

These provisions apply to income paid as of 1 March 2010. A special provision applies to loans entered into outside of France by French companies and some investments funds prior to this date. Interest paid on these loans and on related loans after 1 March 2010 will continue to be exempt.

Column 6: There is no requirement to withhold income tax on royalties paid to EU companies if all the following conditions are met:

- The taxpayer is a French-resident company or a French PE of a company resident in another EU member state.
- The recipient of the income is an EU-resident company.
- The taxpayer and the recipient are at least 25% associates, which means that either one directly holds 25% or more of the share capital or voting rights in the other, or a third party directly holds 25% or more of the capital or voting rights in them both.

Column 7: WHT is automatically imposed on after-tax profits of a PE unless certain conditions are met. The rate is 25% or the reduced tax treaty rate.

Notes

1. *See explanation of Columns 3 and 4*.
2. Exceptions where the dividends are excluded from the taxable income of the company that has received the dividends.
3. A rate of 15% is applicable for dividends distributed by certain companies.
4. The 1929-type Luxembourg holding companies are not entitled to any of the benefits of the France-Luxembourg tax treaty.
5. A 25% rate applies if dividends are not included in the income taxed to either corporate or income tax.
6. No WHT applies if dividends are taxable in Morocco.
7. The 5% rate applies to dividends when three conditions are fulfilled, as follows: (1) the effective recipient of the dividends must have invested at least EUR 76,224.51 in the company that pays these dividends; (2) the recipient must be a company liable for CIT; and (3) the latter company must be exempt from CIT. The rate is 10% when only condition (1) or conditions (2 and 3) are fulfilled. In all other cases, the rate is 15%.
8. An addendum signed on 22 July 1997 modifies the provisions of the French-Swiss tax treaty relating to dividends, interest, and royalties, and provides for the removal of the 5% WHT on profits realised by French PE of Swiss resident companies.

9. The rate indicated applies to Swiss resident companies controlled by Swiss residents.
10. The rate indicated applies to Swiss resident companies that are controlled by non-Swiss residents (non-UE) (Article 11.2.b ii) and meet the conditions of Article 14 of the tax treaty. In the case of column 3, the 15% rate applies to these companies, provided both the recipient and the distributing company are not quoted on a stock exchange. If these conditions are not met, the tax exemption applies.
11. The rate indicated applies to Swiss resident companies controlled by non-Swiss residents but not complying with Article 14 of the tax treaty.
12. The 5% rate applies to gross dividends if the effective recipient is a Ukrainian company that holds, directly or indirectly, at least 10% of the French company's capital. The rate is 0% if the participation exceeds 50% and EUR 762,245. It is 15% in all other cases.
13. Non-treaty recipients of royalties and management fees are subject to a 33.33% withholding rate. Where a treaty exists, management fees are exempt from WHT unless they are included in the definition of royalties subject to WHT.
14. In France, the WHT is levied on a provisional basis at 25% of the net profit. This amount is reduced to the extent it exceeds the dividends actually paid by the company during the previous 12 months, and the amount of dividends paid to residents of France. Consequently, if the foreign head office undertakes not to distribute dividends in a given year, the after-tax profits of its French branch are not subject to WHT, even when they are transferred abroad.
15. WHT on interest on loans with a contract is 0%, while withholding on other interest is in a range from 15% to 50%. For treaty rates, consult the individual entry in the table.
16. The WHT rate can be 60% for certain securities if the investor's identity is not disclosed.
17. The WHT is levied on the following amount: French net profit divided by the total foreign company net profit, multiplied by the amount of the distribution.
18. The rate of 10% is applicable on royalties for the use of literary, artistic, or scientific works, including films; 25% on royalties for the use of trademarks; and 15% otherwise.
19. No WHT is applicable on a royalty arising from the use of or the right to use literary, artistic, or scientific works (excluding film).
20. WHT is reduced to 6% for royalties paid for the lease of industrial, commercial, or scientific equipment.
21. A rate of 5% (Cyprus) and 10% (Israel) is applicable on royalties paid for the use or the right of the use of films.
22. Profits realised in France by foreign corporations whose head offices are located in a European country are not subject to WHT if certain conditions concerning the foreign corporation are met (effective head office in a European country; foreign corporation subject to corporate taxation).
23. No WHT is applicable on a royalty arising from the use or the right to use literary, artistic, or scientific works.
24. No WHT is levied on certain royalties paid in the field of audio visual techniques.
25. The rate of 15% is applicable on royalties paid for the use of industrial property and trademarks.
26. A rate of 33.33% is applicable on royalties paid for the use of or the right to use films.
27. The rate of 5% is applicable on royalties paid for the use of literary, artistic, or scientific works, excluding films.
28. The rate of 33.33% is applicable on royalties paid for the use of literary and artistic works, including films, and for information concerning commercial experience.
29. No WHT is levied on royalties paid for the use of or the right to use literary or artistic works, excluding films and recordings.
30. No WHT is levied on royalties paid for the use of or the right to use copyrights or films.
31. No WHT is levied on royalties paid for the use of or the right to use industrial, commercial, or scientific equipment.
32. The rate of 20% is applicable on royalties paid for the use of trademarks, 15% for the use of industrial property, and 5% for the use of literary, artistic, or scientific works.
33. The rate of 5% is applicable on royalties for the use of literary, artistic, or scientific works, not including films.
34. The rate of 5% is applicable on royalties for the use or the right to use industrial, commercial, or scientific equipment.
35. The reduced rate is applicable if the beneficial owner is a company (other than a partnership).

36. Voting shares solely.
37. French domestic law decreases the WHT rate from 30% to 21% concerning individuals who are resident in another EU member state, in Iceland, and in Norway.
38. *See explanation of Column 6*.

WHT on French-source dividends

The EU WHT exemption extends to dividends paid by foreign companies whose effective place of management is in an EEA member state that has concluded an administrative assistance agreement with France (including Iceland, Liechtenstein, and Norway).

Shares held in bare ownership are taken into account for the computation of the 10% percentage in the distributing entity's capital in order to benefit from the WHT exemption. The ownership percentage required to benefit from the WHT exemption may be reduced from 10% to 5% if the beneficial owner of the dividends (EU or EEA) cannot offset the French domestic WHT in its home country.

The WHT exemption also applies if dividends are paid to a parent company based in the European Union or in a third country that has concluded an administrative assistance agreement with France that is in a tax loss position and is declared bankrupt or is in a similar situation.

Dividends received by a French parent from qualifying holdings

Shares held in bare ownership are taken into account for the computation of the 5% percentage in the subsidiary's capital in order to benefit from the participation-exemption regime.

Participation exemption is available for distributions received from entities established in NCSTs, provided the parent company demonstrates that these operations are not designed for, or do not result in, locating profits in such NCST for tax fraud purposes.

There is an exclusion of certain dividend distributions (e.g. distributions made by *société d'investissement immobilière* côtée [SIIC], *société immobilières pour le commerce et l'industrie* [SICOMI], *société de placement à prépondérance immobilière à capital variable* [SPPICAV], etc.) from the participation-exemption regime.

Anti-avoidance rules applicable to Non-Cooperative States or Territories (NCSTs)

The French parent-subsidiary regime is not applicable to dividends paid from entities located in an NCST.

WHT on passive income is 75% for transactions with an NCST person or entity.

Payments (e.g. interests, royalties, payments for services) made to an NCST person or entity are, as a general rule, not tax deductible. In addition, it is not possible to offset WHT in France with any foreign WHT borne by the entity located in an NCST.

Moreover, concerning shareholders (individuals and companies) located in an NCST, a tax amounting to 75% is levied on capital gains derived from the disposal of shares in French companies, whatever the level of shareholding.

In 2018, the list of NCSTs includes Botswana, Nauru, Brunei, Niue, Guatemala, Panama, and Marshall Islands.

General Anti-Abuse Rule (GAAR)

A GAAR provided by the EU Directive is implemented in French law and applies to the:

- Parent-subsidiary regime.
- French WHT exemption.

The French GAAR provides that the benefit of these regimes cannot be claimed:

- if the distributions result from a scheme or series of schemes put in place to obtain, as a main objective or as one of the main objectives, a tax benefit that is contrary to the purpose of the parent-subsidiary regime, and
- that is not genuine based on the applicable facts and circumstances.

According to parliamentary works, this GAAR aims to exclude from the exemption holding companies with a sole purpose of holding shares.

As of 1 January 2019, an even wider GAAR provision is enacted. It provides that non-genuine arrangements enacted where the main goal, or with one of its main goals, is to benefit from a tax advantage that defeats the objective purpose of the law must be dismissed.

This provision goes further than the historical abuse of law provision.

Corporate - Tax administration

Last Reviewed - 16 September 2019

Taxable period

The ordinary taxable period is equal to 12 months. Conformity with the calendar year is not requested. In particular cases, the duration of the taxable period can be different from 12 months (e.g. newly established companies are allowed to have taxable periods longer than 12 months; companies that are involved in extraordinary transactions [merger, de-mergers, etc.], as well as companies that are liquidated, may have taxable periods shorter than 12 months).

Tax returns

Regarding fiscal years that end on 31 December, CIT returns are, in theory, due by the end of April of the following year.

Accounting records to be provided in 'computerised format' in case of tax audit

Companies are required to keep their accounting records in computerised form and to provide them to the tax authorities in the same format. Such electronic files must be provided for fiscal year 2015 and following years.

Payment of tax

Payment of tax is made during the fiscal year by way of four instalments equal to 1/4 of the standard taxable income of the preceding year (i.e. by 15 March, 15 June, 15 September, and 15 December for fiscal years that end on 31 December). Regarding fiscal years that end on 31 December, final CIT payment is due on 15 April of the following year.

Currently, for companies that have gross income in excess of EUR 250 million, the last down-payment is assessed on the basis of the estimated taxable income of the present year. This instalment plus the three previous ones should represent 95% or 98% of the CIT due on profits of the current year (95% for taxpayers with a revenue between EUR 250 million and EUR 1 billion and 98% for those with revenue in excess of EUR 1 billion). This leads to an anticipated payment of CIT.

Interest and penalties

Regarding CIT, VAT, registration duties, and business tax:

- late payment is subject to late interest computed at a rate of 0.4% per month late (4.80% per year) (the 2017 Act reduces this rate to 0.20% per month late [2.40% per year] for interest due from 1 January 2018 through 31 December 2020) and to a 5% penalty, and
- late filing is subject to late interest computed at a rate of 0.4% per month late (4.80% per year) (the 2017 Act reduces this rate to 0.20% per month late [2.40% per year] for interest due from 1 January 2018 through 31 December 2020) and to a 10% penalty.

Moreover, a penalty of 40% applies in case of bad faith and is increased to 80% in case of fraud.

Tax audit process

The French tax authorities are responsible for verifying that taxpayers' obligations are correctly complied with and, if necessary, for making adjustments by issuing tax assessments.

Once an assessment is notified by the tax inspector and if the taxpayer disagrees with such an assessment, the taxpayer has 30 days to answer (with a possible 30 days extension upon request) and to provide comments to the French tax

authorities.

Following an exchange of written correspondences between the tax inspector and the taxpayer (including hierarchical recourse), either party may submit any disagreement on a factual issue to the departmental or national tax commission. The decision of this commission is neither binding on the taxpayer nor on the French tax authorities.

In cases where the disagreement between the French tax authorities and the taxpayer still remains, the taxpayer can file a claim with the French civil courts or with the French administrative courts, depending on the type of tax that has been subject to assessment by the tax inspector.

France has reinforced its criminal rules applicable to tax matters, requiring special attention in the course of tax audit procedures.

Statute of limitation

Regarding CIT, the general statute of limitation expires at the end of the third year following the one that has triggered the tax liability.

Under certain circumstances, the statute of limitation can be extended up to ten years (e.g. fraud, undisclosed/hidden activity); the statute of limitation can also be interrupted (e.g. notification of a notice of reassessment or international tax assistance).

Topics of focus for tax authorities

Transfer pricing, business reorganisation, financing arrangements, and VAT are standard elements reviewed during tax audit.

The ruling system

To secure the tax status of a situation, foreign companies and individuals can request a private ruling from the French tax authorities as to whether their activities constitute a PE or fixed base.

The French tax authorities have to provide an answer within three months after the receipt of the request. In the absence of response from the French tax authorities within this period of time, the foreign company or individual will be deemed not to have a PE in France.

France provides for other specific rulings (e.g. for R&D activities eligible to R&D tax credit).

APAs are also provided by the French tax authorities for transfer pricing purposes (*see the Group taxation section for more information*) as well as for eligibility of R&D expenses to the R&D tax credit.

Corporate - Other issues

Last Reviewed - 16 September 2019

France and the United States sign bilateral agreement on the implementation of the Foreign Account Tax Compliance Act (FATCA)

France and the United States signed a bilateral intergovernmental agreement (IGA) intended to implement FATCA. FATCA was enacted by the United States in 2010 to combat offshore tax evasion by US persons. France, with the United Kingdom, Germany, Spain, and Italy, was an original member of the ‘G5’ countries that agreed with the United States to advance the principles of FATCA under the concept of bilateral IGAs in order to address many of the legal barriers faced by financial institutions in complying with FATCA.

The French government has committed to drafting local laws and regulations to implement FATCA among all financial institutions resident in France (including French branches of foreign companies). Broadly speaking, the banking, life insurance, and asset management industries will be most affected, but certain estate (patrimonial) vehicles, holding companies, as well as hedging, finance, and treasury centres of non-financial groups could also be impacted, depending on the nature of their activities.

As expected, the US-France IGA is based on the Model 1A version with an Annex II negotiated to include provisions specific to the local French market and that contains categories of French financial institutions qualifying for exempt beneficial owner or deemed-complaint status.

Compliance with FATCA's due diligence, reporting, and, in some cases, withholding requirements is necessary for foreign financial institutions (FFIs) to avoid suffering 30% withholding on certain US-source income and payments. The French IGA is intended to simplify the FATCA requirements for French financial institutions, but, in most cases, still requires significant efforts to maintain compliance.

The following are key points specific to the US-France IGA to consider:

- Inclusion of the 'most favoured nation' clause allowing adoption of certain provisions from other IGAs that may be more favourable to French financial institutions.
- Consistent with Notice 2013-43, the timetable for implementation of FATCA has been synchronised with the intended amendments to the US Treasury Regulations, starting with the entry into force of key provisions effective 1 July 2014.
- Annex II of the French IGA describes various classes of exempt beneficial owners and deemed-compliant financial institutions.
  - The deemed-compliant financial institutions described in Annex II are treated as Non-Reporting French Financial Institutions under the French IGA. In turn, these Non-Reporting French Financial Institutions are considered certified deemed-compliant FFIs under the US regulations and do not have to register to obtain a global intermediary identification number (GIIN).
  - Collective investment vehicles, including investment entities established in France that are regulated as collective investment vehicles, *sociétés de crédit foncier* and *sociétés de financement de l'habitat*, are Non-Reporting French Financial Institutions treated as deemed-compliant FFIs.
- The asset management industry should benefit from an exemption related to employee savings plans and a special status that is intended to reduce the FATCA obligations of investment vehicles and management companies that can ensure the absence of US investors and non-participating financial institution customers.
- The agreement also provides specific provisions for certain French institutions and financial products, including:
  - Exemption for certain local banks with an almost exclusively local client base. This could be beneficial to French institutions following the mutual banking model.
  - Most regulated savings products (savings books and savings plans), which are excluded from the definition of a financial account and will not be treated as US Reportable Accounts, whereas the share savings plan (PEA) remains within the scope of FATCA.
  - Products dedicated to retirement planning (Article 39, Article 82 , Article 83, Madelin, Madelin agricole, Perp, Pere, and Prefon), which are excluded from the definition of financial accounts and will not be treated as US Reportable Accounts.
  - Pension funds will also benefit from a specific exemption.

French financial institutions, as well as non-financial organisations with financial institutions within their groups, should be taking steps based on the IGA (and in some cases US Treasury Regulations) to ensure they are prepared to comply. Unofficial draft guidelines have been prepared regarding the US-France IGA. This draft is not binding on French tax authorities. Official guidelines were published on 5 August 2015.

Individual - Significant developments

Last Reviewed - 22 November 2019

Recent significant developments impacting the taxation of individuals include the following:

Moving to a withholding tax (WHT) system

Since 1 January 2019, for French resident taxpayers, income taxes are paid on a pay-as-you-earn (PAYE) basis. The scope of income subject to the new WHT system is very wide and covers most categories: employment income, pensions, replacement income, annuities, self-employment income (industrial and commercial, non-commercial, agricultural), and rental income.

Taxation of non-resident of France

The Finance Act Bill for 2019 planned to bring the taxation of non-resident taxpayers closer to those of French tax residents in 2020 by eliminating the WHT at 0%, 12%, and 20% on the non-French tax residents' wages (Article 182 A of the General Tax Code), by implementing the PAYE (PAS), and by removing the partially liberating nature of the WHT. However, amendments as part of the draft Finance Bill for the year 2020 provide for a moratorium of one year of the new taxation system for non-residents. Consequently, the current system remains in place for 2020 and potentially 2021 (to be confirmed).

Inbound tax regime: Extension of the 30% flat exemption for intra-group mobility

The 2019 Finance Act Bill has reinforced the favourable tax regime for 'impatriates' (article 155B of the General Tax Code) by extending the 30% flat rate exemption, which previously was only available to employees directly recruited from abroad, to the net taxable compensation of all employees, regardless of the way they were recruited, including those who are transferred intra-group.

This provision applies to compensation due beginning 1 January 2019 for transfers that occurred from 16 November 2018.

Individual - Taxes on personal income

Last Reviewed - 22 November 2019

Individuals, whether French or foreign nationals, who have their tax domicile in France are generally subject to personal income tax (PIT) on worldwide income unless excluded by a tax treaty. Individuals who are not domiciled in France (non-residents) are subject to tax only on their income arising in France or, in certain cases, on imputed income.

Personal income tax rates

Each category of income is combined and, after deduction of allowances, is taxed at progressive rates. Total income is split according to family status (i.e. 'the more children you have, the less tax you pay'). Under income-splitting rules, total taxable income is divided by the number of shares awarded to the taxpayer: one share for a single person, two shares for a married taxpayer without children, half a share for each of the first two dependent children, and one full share for the third and each subsequent child. Thus, the income of a married taxpayer with three children is split into four.

However, the tax saved from income splitting is limited depending on the net taxable income of the tax household. Figures vary for married taxpayers and for single and divorced taxpayers with dependent children.

Rates are progressive from 0% to 45%, plus a surtax of 3% on the portion of income that exceeds 250,000 euros (EUR) for a single person and EUR 500,000 for a married couple and of 4% for income that exceeds EUR 500,000 for a single person and EUR 1 million for a married couple.

Progressive tax rates - 2018 *			PIT			
Total compensation	Employee social contributions	Net taxable compensation	Single	Married	Married + 1 child (c)	Married + 2c
35,000	7,351	28,646	2,214	0	0	0
40,000	8,401	32,739	3,042	294	0	0

45,000	9,398	36,884	4,161	1,025	0	0
50,000	10,389	41,036	5,282	1,757	780	0
55,000	11,379	45,188	6,403	2,705	1,513	536
60,000	12,370	49,340	7,524	3,427	2,534	1,269
65,000	13,361	53,491	8,645	3,950	3,252	2,315
70,000	14,351	57,643	9,766	4,473	3,776	3,078
75,000	15,342	61,795	10,887	5,089	4,299	3,601
80,000	16,333	65,946	12,007	6,209	4,822	4,124
85,000	17,324	70,098	13,128	7,330	5,779	4,647
90,000	18,314	74,250	14,250	8,452	6,901	5,350
95,000	19,305	78,402	15,371	9,573	8,022	6,471
100,000	20,296	82,553	16,548	10,693	9,142	7,591
105,000	21,286	86,706	18,081	11,815	10,264	8,713
110,000	22,277	90,857	19,612	12,935	11,384	9,833
120,000	24,259	99,160	22,676	15,177	13,626	12,075
150,000	30,203	124,071	31,869	21,903	20,352	18,801
200,000	40,165	165,553	48,837	34,924	33,373	31,822
250,000	50,145	207,023	67,371	51,926	50,375	48,824
300,000	60,125	248,493	86,033	68,929	67,378	65,827

* Note that social contribution rates are the average rates applicable to 2019 remuneration. PIT rates are those applicable to 2018 annual income.

Social surcharges

Social surcharges are applicable to various kinds of income. The total social surcharges on employment income, rental income, interest, dividends, and capital gains for 2019 are shown below.

Type of income	Social surcharge (%)		
	Contribution Sociale Généralisée **(CSG)**	***Contribution au Remboursement de la Dette Sociale*** **(CRDS)**	**Other levies**
Employment income	9.2	0.5	-
Rental income	9.2	0.5	7.5
Dividends	9.2	0.5	7.5
Interest	9.2	0.5	7.5

Capital gains	9.2	0.5	7.5

The persons affiliated to a compulsory social security scheme, other than French, within a country of the European Economic Area (EEA) (European Union, Iceland, Norway, Liechtenstein) or Switzerland are exempt from CSG and CRDS on their investment income. However, these revenues remain subject to a solidarity levy at a rate of 7.5%.

Inbound assignee regime (Article 155 B of the French tax code)

The inbound assignee regime applies to employees assigned to France by their foreign employer or to employees directly recruited abroad by a French company as of 1 January 2008. In both cases, the individuals must not have been French tax resident during five calendar years preceding the year of beginning of their assignment/employment in France. In addition, the individuals need to fulfil specific residence/domicile conditions.

Under this regime, individuals assigned to France by their foreign employer can benefit from a French income tax exemption in relation to salary supplements connected with their assignment.

For employees directly recruited abroad, and for employees transferred to France by their foreign employer who have taken up their position as of 16 November 2018, the regime offers the following options:

- exemption of the actual amount of salary supplements received, or
- a flat rate exemption of 30% of the total remuneration.

The regime still provides for a 'floor' of reportable compensation (i.e. the taxable compensation cannot be lower than the taxable remuneration paid for a similar job in the same or a similar company established in France).

It also provides for an exemption for the part of the remuneration related to foreign workdays. However, the total exemption (i.e. on salary supplements, actual or not, and foreign workdays) is limited to 50% of the total remuneration. Alternatively, the individual can elect for an exemption of French tax on the actual salary supplements and the remuneration related to foreign workdays, limited to 20% of the taxable remuneration.

The availability of this inbound regime is limited to eight years from the year of arrival (five years for taxpayers who have taken up a position in France before 6 July 2016). The employee will be able to keep the benefit of the inbound regime even in case of mobility with the company or intra group (but still within the eight or five maximum years).

This legislation cannot be combined with the regime available to French outbounds.

Since this tax regime is complex, we would recommend that you seek professional advice before claiming the benefits of this provision on your French income tax return.

'Headquarters' tax regime

Certain expatriates who cannot benefit from the above 'inbound regimes' (or for whom a claim under these provisions may not be beneficial) may be able to claim a full exemption in respect to certain 'expatriate' allowances, providing they do not stay in France more than six years as salaried employees and providing they were not regarded as French tax residents in the year preceding their transfer to France. In particular, the reimbursement by the employer of tuition fees for dependent children enrolled in either primary or secondary school may be tax exempt.

Local income taxes

There are no local taxes on personal income in France. However, there are local taxes on housing for individuals occupying or renting housing in France on 1 January of the tax year (*see Property taxes in the Other taxes section for more information*).

Individual - Residence

Last Reviewed - 22 November 2019

Under domestic law, an individual is considered to be domiciled in France if at least one of the following criteria below is met:

- The habitual abode of the person or family is in France or France is the principal place of sojourn.
- Professional activities are carried out in France.
- France is the centre of economic interests.

Under most bilateral tax treaties concluded with France, tax domicile is first determined under the law of the country that asserts the power to tax. If the individual is considered to be resident under the laws of two countries, the treaty provides 'tie-breaker' provisions to determine the country of residence. These tie-breaker tests generally include as criteria, in descending order, permanent home, personal and economic relations (centre of vital interests), habitual abode, nationality, and, if none of the foregoing tests is determinative, the decision of the competent authorities.

Individual - Other taxes

Last Reviewed - 22 November 2019

French social security contributions

The French social security system is composed of various schemes providing a wide range of benefits. This system includes social security basic coverage (sickness, maternity, disability, death, work-related accident benefits, and old age state pension), unemployment benefits, compulsory complementary retirement plans, complementary death/disability coverage, and complementary health coverage.

The contributions are shared between employer and employee; on average the employer's share of contributions represents 45% of the gross salary. For 2019, the employee’s share of French social contributions represents approximately 20% to 23% of the remuneration. However, since the contributions are assessed using various ceilings, the average rate will decrease as the gross salary increases.

Employers' contributions made to additional medical coverage schemes (which are mandatory and collective) are taxable.

Generally, for any employee who carries out a salaried activity in France, the employer withholds the employer's share and pays the employer's share of French social security charges. However, France has entered into agreements with more than 40 countries whereby expatriates temporarily transferred to France may remain under the home country social security schemes and are exempt from French charges (scope of the exemption according to the applicable provision of the bilateral agreement), provided they hold a valid certificate of coverage.

Capital gains tax

Capital gains tax on securities

Capital gains derived from the sale of securities are subject to PIT at a flat tax rate (PFU) of 30% (12.8% for income tax, plus social levies at a rate of 17.2%), and, if applicable, to the exceptional income tax for high earners at a maximum marginal tax rate of 4%.

Taxpayers with low income may have interest to opt to tax the capital gains at the progressive income tax rates.

If they opt for a taxation at the progressive income tax rates, they can benefit from a rebate for length of holding, but only for shares acquired or subscribed before 1 January 2018.

This rebate for length of holding is as follows:

- 50% for holding between two and eight years.
- 65% after eight years of holding.

The PFU also applies to capital gains due upon transfer of tax residency outside of France (i.e. exit tax).

A specific regime applies to capital gains derived from sales of shares in small and medium companies (PMEs) created less than ten years ago and to capital gains currently taxed under a preferential regime (notably regimes applicable to

young innovative companies' securities), assuming that the shares were acquired before 1 January 2018 and that the taxpayer chose to opt for the taxation at the progressive income tax rates. It consists of a rebate for length of holding on the net gain, as follows:

- 50% for holding between one and four years.
- 65% for holding between four and eight years.
- 85% after eight years of holding.

On top of this increased rebate, a preliminary fixed tax allowance of EUR 500,000 applies for PME executives upon retirement.

The above rebates only apply to income tax and not to social surtaxes, which remain due at the rate of 17.2%.

Capital gains tax on real estate properties

Various regimes apply to the capital gain tax on real estates. It is therefore highly recommended to refer to a real estate tax specialist to confirm the applicable tax treatment.

Capital gain derived from the sale of a principal residence is tax-free.

A similar tax exemption is possible for individuals who have transferred their tax residency outside of France in a member country of the European Union (EU) or in a country or territory that has concluded with France a treaty on administrative assistance to combat tax evasion and tax fraud as well as a treaty on mutual recovery assistance for income tax (similar in scope to that laid down by Directive 2010/24/ EU of Council dated 16 March 2010). The country should not be considered as a 'non-cooperative' country. Taxpayers can benefit from the tax exemption of the capital gain derived from the sale of their former principal residence if:

- their former principal residence is sold before 31 December of the year following the year of the transfer, and
- the former principal residence has not been rented to or occupied by a third person between the date of the transfer out of France and the date of the sale.

This tax exemption is applicable for sales that have occurred since 1 January 2019.

Capital gain derived from the sale of another property (for instance, secondary residence) is tax-free if the sales price is less than EUR 15,000.

Capital gains derived from the first sale of a secondary residence are tax-free if the vendor did not own one's principal residence during the four years preceding the sale and if the sale price is reinvested for the purchase of one's principal residence.

In addition, the capital gain relating to the sale of a property in France by a non-French tax resident may be tax exempt, providing that:

- the sale occurs before 31 December of the tenth year following the departure from France, or
- without condition of time if the residence has not been rented to or occupied by a third person since 1 January of the year preceding the sale of the residence.

The individual must have been considered as a French tax resident for at least two years at any time preceding the year of sale.

The exemption is limited to one property per tax household and to EUR 150,000 of net capital gain.

The exemption would also be extended to nationals of non-EU countries that have included a non-discrimination clause in their tax treaty signed with France.

For taxable real estate capital gains, a tax rebate for the holding period is applicable. Regarding real estate held for more than five years, a rebate is applied on the taxable basis as follows:

- 6% for each year of holding after the fifth year.
- 4% for the 22nd year of holding.

This leads to a full income tax exemption of capital gains after a holding period of 22 years.

Regarding social surtaxes, the full exemption is obtained only after a holding period of 30 years, the rebate being as follows:

- 1.65% for each year of holding after the fifth year.
- 1.60% for the 22nd year.
- 9% for the years after the 22nd year.

This leads to a full income tax and social surtaxes exemption of capital gains after a holding period of 30 years.

The net gain is taxed at a flat rate of 19% (i.e. a total of 36.2%, including special social surtaxes of 17.2%).

An additional tax is applicable on real estate capital gains exceeding EUR 50,000 and realised on real estate other than building lots. This tax is progressive from 2% to 6% and is applied in addition to income tax and social levies.

The declaration of this capital gain, as well as the payment of the related PIT, is made directly through the notary. However, it must be reported on the annual tax return to determine the 'reference income' and therefore the potential application of the special surtax on high income of 3% and 4%.

Note that an additional specific tax rebate is applicable to the sale of construction lands (*terrain à bâtir*) for income and additional surtaxes purposes, under certain conditions.

Exit tax

Individuals who transfer their tax domicile outside of France (and who had their tax domicile in France for six years during the ten years before they break their tax domicile in France) are taxed on the unrealised capital gains on shares and rights held directly by tax household members when these rights either:

- exceed 50% of the shareholding or
- represent a total value exceeding EUR 800,000.

These capital gains or value of receivables will be subject to the PIT at a flat tax rate of 12.8% and social surtaxes of 17.2%. Taxpayers may opt to tax the capital gains at the progressive income tax rates (*please refer to the description of Capital gain tax above*).

Individuals who have transferred their tax residency outside of France in a member country of the European Union or in a country or territory that has concluded with France a tax treaty covering administrative assistance to combat tax evasion and tax fraud as well as a tax treaty on mutual recovery assistance for income tax (excluding 'non-cooperative' countries) are benefiting from an automatic payment deferral. In such a case, the payment of tax will be deferred up to the date of disposal of the securities or rights.

If the individual finally comes back to France, or after the expiry of the specified time period, the gain or rights will benefit from an automatic cancellation/reimbursement of tax, provided that certain filing conditions are fulfilled.

Four tax relief periods may apply depending on the date of transfer of the domicile outside France:

- 8 years for a transfer from 11 March 2011 to 2013.
- 15 years for a transfer from 2014 to 2018.
- 2 years from 2019 if the total value of the shares is less than EUR 2.57 million.
- 5 years from 2019 if the total value of the shares is more than EUR 2.57 million.

Consumption taxes

Value-added tax (VAT)

VAT is assessed on goods sold and services rendered in France. The normal VAT rate is 20%. Catering and transports of persons are taxable at a 10% reduced rate. Sales of certain kinds of medicines and sales of books are taxable at a 5.5% reduced rate. Food products, subscription to gas and electricity (under certain circumstances), and products and services provided to disabled persons are taxable at a 5.5% rate. Medicines reimbursed by French social security are taxable at a particular rate of 2.1%. Exports and certain specific services invoiced to non-French residents are zero-rated.

Tax on real estate properties (IFI)

Individuals who qualify as tax residents of France on 1 January of a given year are liable to tax on their worldwide real estate properties, unless otherwise provided by a tax treaty.

Non-residents of France are only liable to the tax on their real estate properties located in France.

Only non-professional real estate properties are taxable.

IFI is only due if net taxable wealth exceeds EUR 1.3 million (2019 tax year) on 1 January of that year.

Rates are progressive from 0.50%, after an allowance of EUR 800,000 to 1.5% for net wealth in excess of EUR 10 million.

The IFI return has to be submitted by the same deadline as the income tax return (normally by mid-May of the relevant year). The corresponding tax has to be paid upon receipt of the IFI bill (in most of the cases on 15 September of the relevant year).

Citizens of certain countries, such as Sweden, Germany, and the United States, are fully exempt from wealth tax on non-French assets for the first five years of residence in France.

If an individual arrived in France after 6 August 2008 and was regarded as a non-French tax resident for the five years preceding arrival in France, the individual's real estate properties situated outside of France are exempt from French wealth tax until 31 December of the fifth year following the year of arrival in France.

Inheritance, estate, and gift taxes

French inheritance or gift tax may be due by beneficiaries of gifts or inheritance. If the deceased or the donor is a tax resident of France, tax will be due in France on worldwide assets transmitted. If the deceased or donor is not a tax resident of France, tax will be due on worldwide assets transmitted to the donee if the donee has been a tax resident of France for at least six out of the last ten years.

Regardless of whether the donor or donee is a tax resident of France, tax will be due on all personal and real property located in France. However, it is to be noted that tax treaties addressing the inheritance and/or gift tax may modify the above tax results.

Inheritance tax is levied on assets at their fair market value, with allowances taking into account the relationship between the deceased and the beneficiary. Debts existing at the time of death are deductible in full. Inheritance tax is levied according to tax schedules that vary depending on the family relationship between the beneficiaries and the donor or deceased.

No inheritance tax is due for inheritance between spouses (or partner of a *Pacte civil de solidarité* [PACS]) and for inheritance between brothers and sisters living together under specific conditions.

Progressive tax rates are applicable after a rebate of EUR 100,000 when beneficiaries are direct dependants.

Between non-related parties, the rate is 60% after an allowance of EUR 1,594 granted to each beneficiary. This allowance is not applicable in case of gifts.

Gift tax is subject to the same standard rules. However, there are some differences. Debts in relation to the property transferred are not deductible, and this is not considered to be a taxable benefit if the donor pays the gift tax personally.

Property taxes

Property tax on developed property

As owner, usufructuary, or trustee of a building, it is necessary to pay the property tax on developed property each year. This tax is established for the year according to the situation on 1 January of the tax year. If the taxpayer is an owner on 1 January, that individual has to pay the property tax even if the property is sold later.

Housing tax

Housing tax is established annually according to the taxpayer's situation on 1 January of the tax year. This tax is collected by the municipality where the taxpayer's home is located, and is calculated on the net rental value.

The Finance Act Bill for the year 2018 provides a gradual decrease in the dwelling tax applicable to a principal residence, to be applied over a three-year period starting with the 2018 tax year. 80% of all households are expected to be exempted from the payment of this tax by 2020 as a result.

This decrease in housing tax will be applicable to households whose fiscal reference revenue does not exceed EUR 27,432 for a single taxpayer, increased by EUR 8,128 for each of the first two half parts for dependants, then by EUR 6,096 for each additional half part. In order to avoid detrimental impacts of the ceiling, a progressive decrease will be provided for households whose fiscal reference revenue is between these limits and EUR 28,448 for a single taxpayer (increased by EUR 8,636 for the first two half parts for dependants) that is EUR 45,720 for a couple (increased by EUR 6,096 per additional half part for dependants).

For eligible households, the decrease amounts to 65% in 2019.

Individual - Income determination

Last Reviewed - 22 November 2019

Employment income

Unless expressly excluded by a tax treaty as subject to tax in another country or by domestic law, employment income earned in France and abroad by a resident is subject to French income tax, regardless of where payment is made and whether it is remitted.

Employment income is widely defined and includes all employment benefits provided by the employer whether in cash or in kind. Social security and pension contributions made to French and qualified foreign plans are tax deductible. Business expense reimbursements are not taxable.

Benefits-in-kind are, as a general rule, included in income at market value. The following are exceptions:

- Reimbursements of travel costs incurred by an employee exclusively for business purposes and furniture removal expenses are generally both fully non-taxable.
- A cash lump sum provided by an employer to compensate the employee for housing costs is assessed in full for income tax purposes, although housing (rented or owned by the employer) provided to the employee is subject to special rules. In this case, the taxable benefit is assessed, not at the actual cost of the rent, but at the fixed rates provided by the French social administration (depending on the level of remuneration as well as the number of rooms) or, upon election by the employer, at the rental value used by the tax authorities to levy local taxes. In order to qualify, the expatriate must not be a managing director/corporate officer of the company owning or renting the dwelling.
- Impatriate allowance may be fully exempt from PIT according to the special inbound tax regime (*see the Taxes on personal income section*).

Non-residents liable to PIT on employment income are subject to WHT. After deducting mandatory employee social security contributions and the standard 10% salary deduction, employment income is subject to WHT at source by the employer at the rates of 0%, 12%, and 20%. The 12% WHT is a final non-refundable tax. Non-residents are, nevertheless, liable to PIT (resident rates) on the portion of remuneration subject to the 20% band. For non-residents, the minimum rate of tax applicable to net annual income up to a limit of EUR 27,519 (for 2018) is 20% and 30% for the fraction above this limit (limit for income from France mainland). Therefore, the annual tax may be higher than the 20% WHT; in such a case, the 20% WHT levied by the employer is offset, but an additional income tax is due by the employee. If the annual tax is lower, the total WHT tax is the final tax liability of the employee. Under certain conditions and in limited cases, refunds of WHT can be claimed.

The Finance Act Bill for 2019 reformed the tax system for non-resident taxpayers. This reform, expected to come into effect on 1 January 2020, is to bring the taxation of non-residents closer to those of French tax residents by eliminating

the WHT at 0%, 12%, and 20% on the non-French tax residents' wages (Article 182 A of the General Tax Code), to implement a PAYE (PAS), and to remove the partially liberating nature of the WHT. However, as part of the draft Finance Bill for 2020, amendments relating to the taxation reform of the non-tax residents of France are discussed. The amendments provide for:

- A moratorium on the elimination of the partially liberating nature of the WHT that cannot take place before 1 January 2021.
- The continuation, as a transitional measure, of the WHT under Article 182 A of the CGI for the years 2020 and 2021 (to be confirmed).
- The abolition of this specific WHT and the application of the PAYE (PAS) as of 1 January 2022.
- The maintenance of a WHT for French-source equity gains (resulting from plans qualified under the French Commercial Code) but calculated as of 1 January 2022 according to the PAS tax base rules (no deductibility of professional fees) and the proportional rate resulting from the PAS default rate grids.

These measures will have to be confirmed during the final vote of the law planned for the end of December 2019.

Equity compensation

There is a specific tax regime in France applicable to stock options and free shares gains that depends notably on the date of grant of the stock options or of the free shares and on whether or not the plan is 'qualified' (under provision of the French Commercial Code).

For 'non-qualified' plans, the acquisition gain is taxed the year the options are exercised (for stock options) or the shares are vested (or put at the employee's disposal if different from the vesting date) for free shares. The acquisition gain is taxable according to progressive tax rates.

For 'qualfied' plans, the taxation of the acquisition gain occurs the year of the sale of the shares. Depending on the date of the grant of the stock options or free shares, the relative acquisition gain may be taxed according to progressive tax rates or flat tax rates. In addition, the acquisition gain is subject to social surtaxes, and may be subject to social tax.

The capital gain, if any, is taxed at the flat tax rate of 30%. *See Capital gains tax in the Other taxes section for more information.*

Both the acquisition gain and capital gain may be subject to the exceptional surtax on high income (CEHR), if applicable.

Considering the complexity of taxation of the stock options and free shares gain in France, specific advice from a tax advisor is required.

Business income

Profits or gains derived from trades, professions, or vocations carried out in France are subject to tax regardless of whether the individual is resident of France. If the individual is resident in France, a liability may also arise on profits or gains on activities carried out abroad unless tax treaties provided otherwise.

Capital gains

Capital gains are generally subject to the flat tax rate. *See Capital gains tax in the Other taxes section for more information*.

Dividend income

Generally, a French resident is liable to French income tax on investment income, whether from French or foreign sources. Dividend income is subject to a flat rate tax (PFU, sometimes referred to as the 'flat tax') set at 30%, including income tax at 12.8% and social surtaxes at 17.2%.

Upon receipt of the dividends, French tax residents are subject to a compulsory WHT as a type of instalment payment against the final tax (self-assessment/return to be prepared in certain situation).

Taxpayers may opt to tax all of the income subject to the PFU at the progressive income tax rates if more beneficial. In this case, the 40% reduction previously applicable to dividends remains applicable. It should be noted that this option is applicable to all of the income subject to the PFU without a possibility of a partial option.

The CEHR applicable to a fraction of fiscal reference income at the 3% and 4% rates remains applicable in addition to the 30% PFU.

Interest income

Generally, a French resident is liable to French income tax on interest income, whether from French or foreign sources. Taxable interests are subject to a flat rate tax (PFU, sometimes referred to as the 'flat tax') set at 30%, including income tax at 12.8% and social surtaxes at 17.2%.

Upon receipt of the interests, French tax residents are subject to a compulsory WHT as a type of instalment payment against the final tax (self-assessment/return to be prepared in certain situation).

Taxpayers may opt to tax all of the income subject to the PFU at the progressive income tax rates if more beneficial. It should be noted that this option is applicable to all of the income subject to the PFU without a possibility of a partial option.

The CEHR applicable to a fraction of fiscal reference income at the 3% and 4% rates remains applicable in addition to the 30% PFU.

Rental income

Rental income (for unfurnished properties) is taxed as ordinary income after deducting actual expenses borne by the landlord, such as mortgage loan interest, management expenses, repairs, property taxes, and insurance expenses. However, no actual depreciation cost will be taken into account (except for specific investments).

Nevertheless, when the tax household receives annual rental income (not relating to specific type of investments) lower than EUR 15,000, the gross income may be directly reported on the tax return and is taxed after deduction of a fixed allowance of 30% corresponding to expenses.

Alternatively, the tax household may opt for the determination of net rental income taking into account the actual expenses paid (instead of the 30% flat rate deduction). This election is made through the filing of the annual PIT return and cannot be revoked for a three-year period.

Rental losses (generally due to repairs), with the exception of interest on loans, are creditable against other income up to a limit of EUR 10,700. Depending on the nature of the property, rental losses exceeding this limit are creditable against rental income only and can be carried forward for ten years following the year in which the loss is incurred.

Inbound assignee regime (Article 155 B)

Inbound assignees who actually benefit from the inbound regime can exempt 50% of the amount of the following income, under certain conditions, that mainly relates to the geographic situation of the paying entity:

- Foreign-source interest and dividends.
- Foreign-source royalties.
- Foreign-source capital gains.
- Foreign-source industrial and intellectual property (IP) gains.

For more details on the social surcharges and their applicability to capital gains and investment income, *see the Taxes on personal income section*.

Individual - Deductions

Last Reviewed - 22 November 2019

Employment expenses

Salaries and other related benefits are taxed after deducting an employee's mandatory social security contributions, except CRDS and part of CSG, and after a standard allowance for professional expenses equal to 10% of taxable employment income (limited to EUR 12,502 on 2018 remuneration). An employee may elect to deduct actual professional

expenses incurred instead of the 10% standard deduction; however, in this case, all expenses reimbursed by the employer must be added back to the taxable salary.

Qualifying professional expenses include certain commuting expenses, meals taken while away from home, and professional documentation. Professional advice should be sought before any option is elected to deduct actual expenses since various conditions must be met to ensure deductibility.

Contributions made to foreign social security systems are also deductible for French PIT purposes for taxpayers qualifying under the provisions applicable to inbounds in France as well as for individuals who are seconded under EU regulation no. 8832004 or a social security agreement signed by France.

In addition, deduction of contributions made to foreign complementary health/disability/death and pension funds are allowed for taxpayers qualifying as inbounds under the law applicable to inbounds.

Nevertheless, these funds must comply with specific conditions in order to be tax deductible. We recommend contacting our specialists to determine whether the foreign plan contribution qualifies for tax deductibility.

Also, in accordance with the regime for inbounds (Article 155B of the French Tax Code), the compulsory registration with the French social security system for those who work in France does not apply to the old-age state pension schemes, provided that certain conditions are fulfilled. The exemption is granted once per assignee and is for a limited period of three years, with a possible extension of three years.

Personal deductions

Taxpayers may be entitled to one or more of the tax credits or general deductions shown below:

- Limited tax credits are available for certain expenses with respect to principal residences, expenses for sustainable development, charitable contributions, domestic employees, students, and child care (*see the Other tax credits and incentives section*).
- General deductions are available for child support and alimony payments.

Alimony and child support

Payments of alimony to an ex-spouse, and of child support to children under 18, made according to the provisions of a court settlement, qualify as fully deductible expenses.

Support payments made to parents, grandparents, children over 18, or married children may qualify as a deductible expense (with a cap for children), provided that the beneficiaries are in need and that the need can be demonstrated.

Personal allowances

Total taxable income is divided into the number of shares (‘parts’) that reflects the taxpayer's marital status and the number of dependants. Children under 18 years of age and disabled children of all ages can be claimed as dependants.

Children from the ages of 18 to 21, as well as children from the ages of 21 to 25 who are full-time students, can, upon request, be claimed as dependants.

The tax benefit per additional half-share for dependent children is limited to EUR 1,551 (limit) for each of the first two children and EUR 3,102 for each additional child.

Individual - Foreign tax relief and tax treaties

Last Reviewed - 22 November 2019

Foreign tax relief

Unless specifically excluded by a treaty, foreign-source income is taxable in France. Residents are entitled to tax credits for WHT paid on certain types of income from other tax treaty countries. Foreign-source income exempt from French tax by virtue of a tax treaty is, nevertheless, added to income taxable in France either to determine the French tax rate

applicable to income taxable in France (exemption with progression) or to calculate gross French tax liability, from which tax paid abroad is deducted (tax credit system), depending on the applicable tax treaty.

Tax treaties

Countries with which France has double taxation agreements (DTAs) are listed below:

Albania	Croatia	Japan	Montenegro	Slovenia
Algeria	Cyprus	Jordan	Morocco	South Africa
Andorra	Czech Republic	Kazakhstan	Namibia	Spain
Argentina	Ecuador	Kenya	Netherlands	Sri Lanka
Armenia	Egypt	Korea, Republic of	New Caledonia	St Martin, St Pierre and Miquelon
Australia	Estonia	Kosovo	New Zealand	Sweden
Austria	Ethiopia	Kuwait	Niger	Switzerland
Azerbaijan	Finland	Kyrgyzstan	Nigeria	Syria
Bahrain	Gabon	Latvia	Norway	Taiwan
Bangladesh	Georgia	Lebanon	Oman	Thailand
Belarus	Germany	Libya	Pakistan	Togo
Belgium	Ghana	Lithuania	Panama	Trinidad and Tobago
Benin	Greece	Luxembourg	Philippines	Tunisia
Bolivia	Guinea	Macedonia	Poland	Turkey
Bosnia and Herzegovina	Hong-Kong	Madagascar	Polynesia, French	Turkmenistan
Botswana	Hungary	Malawi	Portugal	Ukraine
Brazil	Iceland	Malaysia	Qatar	United Arab Emirates
Bulgaria	India	Mali	Quebec	United Kingdom
Burkina Faso	Indonesia	Malta	Romania	United States
Cameroon	Iran	Mauritania	Russian Federation	Uzbekistan
Canada	Ireland, Republic of	Mauritius	Saudi Arabia	Venezuela
Central African Republic	Israel	Mayotte	Senegal	Vietnam
Chile	Italy	Mexico	Serbia	Zambia
China	Ivory Coast	Monaco	Singapore	Zimbabwe
Congo, Republic	Jamaica	Mongolia	Slovakia	

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Individual - Other tax credits and incentives

Last Reviewed - 22 November 2019

Personal tax credits

Charitable contributions

Charitable contributions (including amounts expressly renounced) made to qualified philanthropic, educational, scientific, social, religious, political, or cultural organisations, non-profit making organisations recognised as being of public benefit (*d'utilité publique*), associations authorised to assist with the creation of companies, companies in difficulty, or companies with fewer than 50 employees, as well as to trade unions, can be claimed as a tax reduction of up to 66% of actual contributions.

Limitations on the tax reduction are applicable, based on the net taxable income of the tax household. In addition, contributions to associations providing free food to people in need also qualify for a tax credit of 75% for contributions up to EUR 537 (for 2018 income).

Child care expenses

Taxpayers (whether single, married, divorced, or widowed) who carry out an employed or self-employed activity are entitled to a tax credit of up to 50% of childcare expenses incurred for each dependent child under seven placed at nursery school or with non-domestic help, up to a ceiling of expenses of EUR 2,300 per child and per annum.

Schooling expenses

A tax reduction for schooling expenses is granted to taxpayers whose dependent children study in secondary schools, '*collège*' (EUR 61), '*Lycèe*' (EUR 153), and university (EUR 183).

Domestic help expenses

A taxpayer who employs housekeeping help can benefit from a tax credit of 50% of the expenses incurred, up to the limit of EUR 12,000 per year (i.e. a maximum tax credit of EUR 6,000) or of EUR 15,000 for the first year of employment, increased by EUR 1,500 per dependent child and dependants over 65 years old, but limited to EUR 15,000 (or EUR 18,000 for the first year of employment). There are specific provisions for invalid taxpayers.

Tax credit on expenses for energy transition

Taxpayers who incur certain major equipment expenses (notably boiler equipment, power generation using renewable energy, heating equipment, storm water treatment, insulating roller shutters) on their principal residence in France may benefit from a tax credit under certain conditions and depending on the type of expenses.

Attention should be paid to the type of expenses incurred as certain conditions must be fulfilled to qualify for a tax credit.

Global limit of tax credits

The reduction of PIT due to tax deductions/credits is globally limited (except in specific cases). The global tax reduction is limited to EUR 10,000 per year (plus EUR 8,000 for investments in SOFICA and DOM-TOM).

Individual - Tax administration

Last Reviewed - 22 November 2019

Taxable period

The French tax year runs from 1 January to 31 December.

Tax returns

Husbands and wives or partners of a PACS must file joint returns (except the year of marriage/the year the PACS is signed, where spouses/partners can opt to file separate tax returns for the whole year). Otherwise, separate filing status is not permitted, except under strictly limited circumstances.

French resident tax returns are based on calendar-year income and must be filed, in principle, by mid-May of the following year (the exact filing deadline is confirmed each year by the French tax authorities).

E-filing

The taxpayers whose main home is equipped with access to the Internet should file their tax return online on the government website.

As of 2019, this obligation (bond) concerns all taxpayers, whatever their income.

A fixed EUR 15 fine by tax return will be applied after two breaches, except in particular cases (e.g. the elderly who have no access to the Internet).

Payment of tax

As of 1 January 2019, for French resident taxpayers, a WHT system is implemented. The scope of income subject to the new WHT system is very wide and covers most categories of income: employment income, pensions, replacement income, annuities, self-employment income (industrial and commercial, non-commercial, agricultural), and rental income.

For taxpayers who have already filed a French tax return, the French tax authorities calculate the applicable WHT rate to be applied on employment income or the amount of monthly instalments to be paid by taxpayers based on the last tax return submitted by the taxpayers. The WHT rate or the instalment amount is revised each year in September after the filing of the annual tax return. The tax rate applied is an average tax rate calculated for the household. It is possible to request the application of an individualised tax rate for each spouse. It is also possible to request a modulation of the applicable WHT rate in case of change of personal situation or income.

When a tax rate is not available (e.g. for taxpayers who have never filed a French tax return), employers apply a neutral tax rate on compensation, depending on the level of income. It is possible to request a personalised WHT rate by filing a form (2043 Form).

Considering the risk of potential penalty, specific advice from a tax advisor is required to request or adjust the applicable WHT rate.

The filing of an annual tax return is still required (proposed simplified filing under consideration in some cases - to be confirmed after adoption of the Finance Bill for 2020). If the final tax liability per the annual tax return is higher than the withholdings, the taxpayer is required to pay the balance to the authorities, in principle spread from September to December. If the tax withheld is more than the computed tax on the tax return, the French authorities will refund the difference.

For non-resident taxpayers deriving income from employment and professional activities exercised in France, a WHT mechanism is applied; tax at flat rates of 0%, 12%, and 20% is withheld at source for employment compensation. An annual income tax return is required if the income subject to WHT falls into the 20% WHT bracket and additional tax may be due. A reform of the taxation of non-resident taxpayers is planned, but the application of the reform would start from 1 January 2021 (exact date to be further confirmed).

In addition, there is a tax withholding obligation on French-source stock options (granted from 20 June 2007) and free share award gains realised as of 1 April 2011 by non-resident taxpayers of France.

Other French-source income may also be subject to WHTs and annual reporting.

Tax audit process

The French Tax Administration can verify the accuracy and correctness of the tax return and can provide a control on the document provided. The French Tax Administration analyses the consistency between declared income, the financial situation, and the household's lifestyle.

When disbursements exceed receipts, the difference is considered hidden income unless the taxpayer responds satisfactorily to a request for clarification or justification.

Statute of limitations

The statute of limitations in France is, in general, for three years (period called *délai de reprise*). It has been extended for one year for the year 2018 ('tax holiday year').

Individual - Sample personal income tax calculation

Last Reviewed - 22 November 2019

Taxable income (T) / Number of shares (N)		Rate (%)	Income tax (I)
Over (EUR)	Not over (EUR)		
0	9,964	0	0
9,964	27,519	14	(0.14 x T) - (EUR 1,394.96 x N)
27,519	73,779	30	(0.30 x T) - (EUR 5,798 x N)
73,779	156,244	41	(0.41 x T) - (EUR 13,913.69 x N)
156,244		45	(0.45 x T) - (EUR 20,163.45 x N)

Example:

T = EUR 44,500; N = 2 (married taxpayers)

T/N = EUR 22,250

I = (0.14 × EUR 44,500) - (EUR 1,394.96 x 2) = EUR 3,440

Please note that tax brackets indicated above are 2018 tax brackets.

Individual - Other issues

Last Reviewed - 22 November 2019

Work permits/work visas

If an assignee is a non-EEA national, one cannot perform a salaried activity or professional mission in France without an authorisation.

The appropriate authorisation will depend on the job position, level of salary, seniority within the group, reporting line, management functions, etc.

The immigration reforms of 7 March 2016 and 2 November 2016 instituted a short-term authorisation exemption, valid for stays of up to 90 days, consecutive or not, over a period of 180 days, from work authorisations for persons performing audit work or providing expertise in one of a number of areas including architecture, computer sciences, engineering, and finance. This exemption is valid for both intra-group secondments and service-provider activity, and thus does not apply to work that would be considered as salaried activity for the host entity.

In 2007, the French legislature created a new category of work authorisation designed to facilitate temporary intra-group transfers of assignees, a category of authorisation named *salarié en mission* valid for stay of more than 90 days,

consecutive or not. Since the reform of 7 March 2016 and 2 November 2016, the *salarié en mission détaché* (home employment contract only) category is now called *salarié détaché* (intra-corporate transfer or ICT), and the *salarié en mission salarié* (simultaneous home and host contract) category is now called *passeport talent salarié en mission*.

To qualify for this type of work authorisation, the assignee must:

- be paid a gross monthly salary of no less than one and a half times the minimum wage (sufficient resources or amount of the salary indicated in the collective bargaining agreement for the ICT intra-group posted workers and EUR 2,700 for intra-group salaried workers)
- have at least three (six months for ICT intra group) of seniority with an entity of the assigning group (consequently, this category is therefore not suitable for new hires)
- be performing a function for one's home employer within a French entity of the same group for a period of no less than three months and no longer than three years for ICT intra-group posted workers, and
- have either a certificate of coverage for social security purposes or an attestation that French social security affiliation will be requested in the visa application file.

The advantage is that these categories of admission above do not require establishing proof that no qualified candidate is available locally and also grant the candidate's spouse the right to work in France.

It is also possible for a French employer to hire an individual who has no pre-existing employment relationship with another company of the same group in a salaried employee capacity. This latter category of work authorisation results in the assignee having salaried employment status under an employment contract with the French host entity. It should be noted that a request of this type of authorisation may be refused by the French labour authorities as the future employer should check the employment market to ascertain whether a local person could occupy the job that one proposes to one's candidate.

There are several other types of authorisations, notably those for corporate officers and highly skilled individuals (now called the salaried worker – European Blue Card), and several smaller categories for specific professions.

'Work' in France will trigger French social security liability, unless a treaty exemption applies, and the application of French labour law to a degree that will depend on the structure of the work.

If the assignee is an EEA or a Swiss national, they are exempt from a French work permit as well as from a residence permit (*see below*).

Residence permits

A residence permit or a procedure of registration of stay is also required for non-EEA nationals who plan to stay in France for more than three months. This residence permit is issued by the police authorities depending on the home address of the applicant for one or several years depending on the immigration status of the assignee.

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