

France - Tax Highlights

International tax – Concept of beneficial owner:

A French administrative Court of appeal clarified the concept of beneficial owner of distributions in the context of withholding tax exemption. In this specific situation, the recipient, a Luxembourg company, had received the dividends from a French company and used them to repay its vendor loan used to finance the purchase of the French shares. The Administrative Court of Appeal held that the Luxembourg company was the beneficial owner of the dividends.

[Administrative Court of Appeal, Versailles, October 17, 2023, n° 21VE03404, PST Industries](#)

International tax – Place of effective management:

A Luxembourg company has been deemed to have its effective place of management in France based on the following criteria: the company's strategic decision-making, accounting follow-up and management of the franchised companies were carried out in France. Consequently, even though the Luxembourg company held its management board meetings in Luxembourg, its actual management center was in France. The Luxembourg company was thus liable to corporate income tax and VAT in France. A penalty of 80% has been applied.

Yet another case-law on the risk of permanent establishment...

[Administrative Court of Appeal, Douai, August 17, 2023, n° 21DA028048 SARL Clan's World](#)

International tax – specific withholding tax for non-residents:

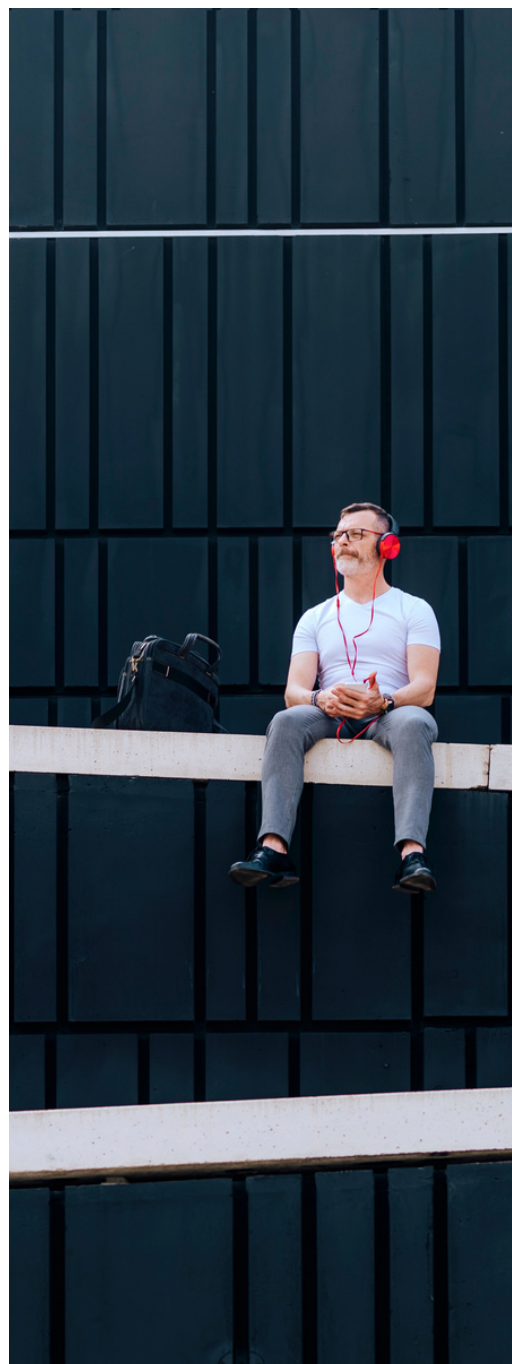
The scale of withholding tax levied on French source salaries and wages for work carried out in France, pensions or annuities received when the debtor is based in France and paid to persons domiciled outside France has been updated.

[BOI-BAREME-000043](#)

Annual real estate declaration – what's new?

Since 2023, all owners, both individuals and companies, of a principal, secondary or rented residence must file a specific return to declare the occupation status of this property. From 2024, the declaration will only have to be made in the event of a change in occupancy status, and no longer systematically.

[Article 1418 of the French Tax Code \(FTC\)](#)



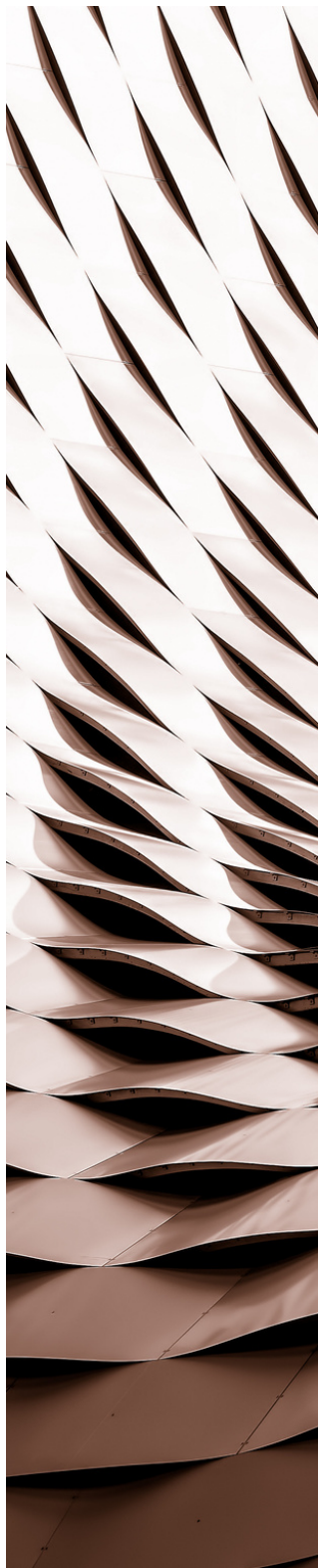
Tax Authorities update exemption threshold for non-profit organizations conducting ancillary commercial activities:

Non-profit organizations are exempt from CIT, VAT and territorial economic contributions if their ancillary commercial activities do not exceed the threshold of EUR 78,596. [Link](#)

Tax Credit for Investments in Green Industry (“Crédit d’impôt au titre des investissements dans l’industrie verte”) enters into Force on 14 March 2024:

A ministerial order published in the same day clarified the list of equipment, essential components and raw materials used in the context of the activities qualifying for the tax credit.

Decree n°.2024-212, March 11, 2024, and Order published in Official Journal No.0061 of March 13, 2024



Indirect tax – The concept of Artistic Photography for VAT purposes clarified by Tax Authorities:

According to these clarifications, to be considered works of art, photographs must have been taken by their authors, printed by them or under their control, signed and numbered within the limit of thirty copies, with the exclusion of any other criteria.

BOI-TVA-SECT-90-10, n°280

TAX TREATIES UPDATE

- **Consequences of the denunciation by Mali and Niger of their Tax treaty with France:**

Mali and Niger took jointly the decision to unilaterally terminate their respective tax Treaties with France.

From 5 March 2024, these denunciations took effect and France will cease to apply the provisions of the two treaties.

In order to secure the regime applicable to the taxpayers, the French government intends to clarify the legal and tax consequence of the new situation and French administrative guidelines should be published soon.

In principle, in the absence of an applicable tax treaty, the tax levied in Mali and Niger, where applicable, should be allowed as a deduction from the taxable base in France (French administrative guidelines, BOI-BIC-CHG-40-30, no. 30).

Ministerial Reply, Official Journal of the Senate, March 14, 2024, p.102

- **France Ratifies Tax Treaty with Moldova on 21 March 2024**

- **By way of Exchange of Letters France and Saudi Arabia Extend Tax Treaty on 14 March 2024:**

This exchange will lead to a further five-year extension of the treaty from 1 January 2024.

- **French Senate Approves Protocol to Tax Treaty with Luxembourg on 14 March 2024:**

The protocol extends the so-called tolerance threshold for frontier workers from 29 days to 34 days.

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