France - Tax Highlights

November 2024

French Draft Finance Bill for 2025 (see our previous Newsletter)
It includes:

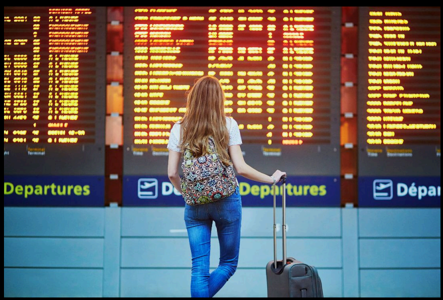
- For companies: (i) introduction of a temporary contribution for large companies based on the corporate income tax due; (ii) introduction of tax on capital reductions realized by large French companies; (iii) creation of an exceptional contribution based on profits generated by large shipping companies; (iv) extension of the tax-neutral regime applicable to merger transactions; (v) revision of some of the Pillar Two Global Anti-Base Erosion rules transposed into French domestic law; and (vi) postponement of the repeal of the Business Contribution on the Added Value. Additional measures may be added to the Bill during the discussions. The French Parliament will vote on the final version by the end of December 2024.

- For individuals:(i) New “temporary” minimum tax on high income earners; (ii) Real estate rented on a furnished, non-professional basis (“LMNP”); (iii) Tax residence: “clarification” of tax rules applicable; (iv) New tax regime of BSPCE warrants for business creators.

VAT in the Digital Age – E: invoicing and e: reporting

The Directive VIDA (VAT in the Digital Age) has just been approved on November 5, 2024 by ECOFIN, now it returns to European Parliament and Council for final approval.
This confirm that e: invoicing and e: reporting will become a reality across the European Union by mid-2030. Other dates of implementation have been agreed for the Single VAT registration rules (July 2028) and for the Platform Economy (January 2030).
In France, e: invoicing and e: reporting rules are confirmed to be implemented on September 1, 2026 for large and intermediate operators and on September 1, 2027 for small operators. However, the French Tax Authorities has announced that the free central public platform will be downgraded to only become a Central Directory and will only receive date from e: invoices (no longer the e: invoices themselves). As a result, e: invoices will have to go through private platforms which will transform e: invoices into invoice date to be reported to the public platform. This may entail additional costs to small and medium operators.

➢ Draft Council Directive amending Directive 2006/112/EC as regards VAT rules for the digital age



Update of the European blacklist of tax havens

Last updated on 20 February 2024, now only Antigua and Barbuda has been removed. The inclusion of a State on the EU's blacklist or grey list is not neutral with regard to the regulations relating to DAC6 and the rules of the public CbCR.

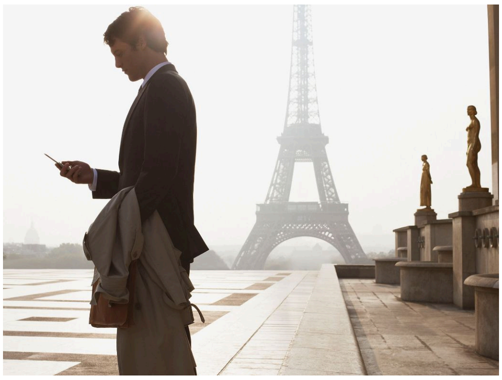
➢ List of non-cooperative States and territories (NCSTs)

International taxation – Proposal DAC9 to simplify Pillar Two implementation

The European Commission adopted a new proposal for a Directive, also referred to as DAC9. Broadly, the proposal aims to help MNEs fulfil their filings obligations under the Minimum Taxation Directive (2022/2523).
Once adopted by the EU Council, these changes would facilitate the exchange of additional tax information between Member States and allow multinational companies to move from local to central reporting. Governments have until 31 December 2025 to implement DAC9 and the first top-up tax information returns are due 30 June 2026, with information exchange required by 31 December 2026.

➢ European Commission, proposal DAC9, 28 October 2024

Group taxation – Opportunities for a subsidiary based in Saint-Barthélemy to join a French tax consolidated group



The situation of companies established in Saint-Barthélemy, a French overseas collectivity with tax autonomy, was likely to raise doubts as to whether they could be members of a French tax consolidated group. In a published tax ruling, the French tax authorities accepted this possibility, subject to specific conditions.

➣ French guidelines, 23 October 2024

VAT and Management Fees - Justification of the reality of intra-group services

The French tax authorities rejected the refund of a VAT credit on invoices issued by a holding company for management fees services, considering that the holding had no human resources to carry out the services (as the two companies had the same managing partner); but also, that the invoices, issued a long time after the services had been carried out, were succinctly worded.
However, in the case at hand, the Paris Administrative Court of Appeal was persuaded by the consistency of the accounting entries showing management fees, corroborated by the Management fees agreement.

➣ Paris Administrative Court of Appeal, 23 October 2024, n°23PA01999, Sté Bistro de l’Arc

TREATIES

French- Latvian treaty: opportunities to claim tax refund

French Tax Authorities announce activation of most favoured nation (MFN) Clauses on interest and royalties on tax treaty between France and Latvia, which provides for more favourable withholding tax rates on interest and royalty payments (including a narrower definition of the concept of royalties).

➢ Updated French Administrative guidelines, 16 October, 2024

French- Italian double tax treaty - No exceptional contribution on high incomes (CEHR) on dividends paid to an Italian resident.

➢ Administrative Court of Montreuil, 19 September 2024, n°2215513

French- Russian double tax treaty – Suspension of provisions of double tax treaty with Russia: Publication of French guideline.

➢ French publishes statement, 24 June 2024

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