



TAX NEWSLETTER

February 2025

I. CORPORATE TAXATION

- **Taxation of very large companies: a new tax is introduced - Finance Law for 2025 on February 14th, 2025 No.2025-127 ("Finance Law for 2025"), Section 11**
Companies subject to Corporate Income Tax ("CIT") with a turnover of at least €1 billion, either in the relevant fiscal year or the previous one, are concerned.
- **Corporate Value-Added Contribution ("CVAE"): its elimination is postponed - Finance Law for 2025, Section 15**
The elimination of the CVAE is postponed to 2027, and an additional contribution equal to 47.4% of the CVAE is introduced for 2025 only.
- **Carryforward of tax losses: a temporary limitation is introduced for tax losses exceeding €2.5 billion - Finance Law for 2025, Section 26 ter**
By way of exception, the portion of a company's tax losses exceeding €2.5 billion for the first fiscal year ending on or after December 31st, 2025, may not be offsetable and carried forward to subsequent years.

II. TAX AUDIT

- **Abnormal Act of Management ("AAG"): a company under the form of an SAS acquiring the temporary usufruct of interest in a real estate company ("SCI") is not committing an AAG - Decision of the Administrative Court of Appeal ("CAA") of Lyon on February 6th 2025, No.23LY01217**
The CAA judges that a SAS may acquire the temporary usufruct of interest in an SCI (in which it is the majority shareholder) before granting a shareholder current account to the SCI to enable it to acquire a real estate property that the SAS leases. This management decision is enforceable against the French Tax Authorities ("FTA"), which cannot recharacterize the transaction as distributed income to individual shareholders due to a supposed depletion of the SAS's assets, unless it proves an actual loss of wealth and an AAG.
- **Tax residency: in case of false tax domiciliation abroad, the statute of limitations is extended to 10 years - Finance Law for 2025, Section 14 nonies**
The 10-year statute of limitations applies to Personal Income Tax ("PIT"), wealth tax, and gift/inheritance taxes for reassessments expiring from January 1st, 2025, when a taxpayer falsely claims to be domiciled abroad.
- **Sale at an undervalued price: it does not constitute an AAG when justified by a collective insolvency procedure of the company - Decision of the CAA of Nantes on February 18th 2025, No.24NT02275, Sté STEG**
The CAA judges that no AAG occurs when a company sells its assets at a price below market value if the transaction is justified by the company's interests, particularly for business continuity and debt repayment in the context of insolvency proceedings.
- **Symmetrical correction of balance sheets: the error must have occurred more than 7 years before the first non-time barred fiscal year - Decision of the 9th chamber of the French Administrative Supreme Court ("CE"), on February 19th 2025, No.486505, Sté Multi Transports Express**
The CE rules that, under Section 38, 4bis of the French Tax Code ("FTC"), an error impacting the valuation of a balance sheet item in a non-time barred year can only be amended symmetrically in the closing and opening balance sheets if this error was made more than 7 years before the first non-time barred fiscal year.



- **Lawyer's professional secrecy: it is binding on the FTA - Decision of the 9th and 10th chambers of the CE, on February 28th 2025, No.486336, Sté Artmes**

The CE considers that the FTA cannot rely on confidential exchanges between a lawyer and his client - protected by professional secrecy unless waived by the said client - to establish taxation or apply a tax penalty. However, the tax procedure remains valid if the tax assessment is based on independent grounds.

III. INTERNATIONAL TAXATION

- **Franco-Italian tax treaty: the benefit of a tax credit for dividends under the parent-subsidiary regime depends on sufficient justification - Decision of the CAA of Lyon on February 6th 2025, No.23LY01233, Sté A. Raymond**

Following a referral from the CE, the CAA judges that, given the standard nature of the Share of Costs and Charges ("QPFC") related to dividends benefiting from the parent-subsidiary regime, the tax credit granted under the Franco-Italian tax treaty for withholding tax on Italian-source dividends is limited to the tax due in France. If actual expenses are lower than the QPFC, the applicable tax corresponds to the product of the French tax rate and the difference between the QPFC and actual expenses.

- **Capital gains: the French provisions regarding non-resident individuals are brought into compliance with European law - Finance Law for 2025, Section 3 septies**

Non-resident individuals may claim a refund of the portion of the withholding tax which exceeds the income tax they would have owed if they had been domiciled in France.

- **Tax residency: the distinction between "tax domicile" and "tax residency" is clarified - Finance Law for 2025, Section 23**

A person meeting at least one of the tax residency criteria under Section 4 B of the FTC is not necessarily considered as a French tax resident if, under a tax treaty, she is deemed a resident of another country.

- **Franco-Chilean tax treaty: dividends paid by a Chilean company to its French parent company may be neutralized - Decision of the 8th chamber of the CE on February 18th 2025, No.490792, Société Legrand SA**

The CE rules that the reintegration of the QPFC into taxable profits must be neutralized when dividends are distributed by a Chilean subsidiary which, if it had it been based in France, would have been eligible for tax consolidation in the same way as a subsidiary established in France or another EU member state.

IV. INDIVIDUAL TAXATION

- **Exit tax: retroactivity is incompatible with EU law - Decision of the 9th and 10th chambers of the CE on February 5th 2025, No.476399**

The CE considers that the retroactive application of the exit tax regime provided for by Section 167 bis of the FTC for tax residency transfers within the EU between March 3rd and May 11th, 2011 – date on which taxpayers became aware of this provision - violates EU principles of legitimate trust and legal certainty.

- **Taxation of high incomes: a Differential Contribution on High Incomes ("CDHR") is introduced for 2025 - Financial Law for 2025, Section 3**

Fortunate households whose taxable income exceeds €250,000 (€500,000 for couples) and whose income tax rate is below 20% will be liable for the CDHR in 2025.

- **Tax credits and PIT withholding tax: the audit is reinforced - Financial Law for 2025, Section 14 octies**

The FTA may now require taxpayers, before the taxation, to provide all supporting documents for tax credits or withholding tax deductions they claim. If no response is provided, or if the response is deemed insufficient, the tax will be assessed without taking these elements into account.

- **Sale of main residence: capital gain exemption is denied if the real estate property remained unoccupied for 17 months - Decision of the 9th chamber of the CE on February 19th 2025, No.497382**

The CE confirms that to qualify for the exemption on capital gains realized on the sale of the main residence, the real estate property must be sold within a maximum of one year under normal circumstances.