



TAX NEWSLETTER

September 2025

I. CORPORATE TAXATION

- **Long-Term Capital Gains ("PVLТ"):** *the favourable regime is not applicable to shares in predominant real estate companies - Decision of the Administrative Court of Appeal ("CAA") of Paris on September 25th, 2025, No.23PA03974, Viparis Holding*

The CAA judges that the PVLТ regime provided for in Section 219 a sexies-0 of the French Tax Code ("FTC") does not apply where the company whose shares are sold qualifies as a predominant real estate company. In the case at hand, since the company's main activity consisted in making spaces available to third parties, the real estate properties it operated are deemed to be rental assets (and not operating assets) and are therefore included in the computation of the real estate predominance ratio.

- **Punitive damages:** *they are not deductible for Corporate Income Tax ("CIT") purposes - Decision of the CAA of Versailles on September 25th, 2025, No.23VE02737, SAS Alder Paris Holdings*

The CAA recalls that punitive damages granted by a foreign court constitute monetary penalties imposed for a breach of a foreign legal obligation, and not compensatory damages intended to remedy a loss. Consequently, pursuant to Section 39, 2 of the FTC, punitive damages are not deductible for the computation of the taxable income.

II. TAX AUDIT

- **Transfer at undervalue:** *the 80% penalty for fraudulent conduct applies - Judgment of the Judicial Tribunal ("TJ") of Le Mans on September 11th, 2025, No.19/011371*

The TJ judges that the transfer of shares covering a substantial indirect gift may be sanctioned not on the grounds of abuse of law, but as a fraudulent conduct, leading to the application of the 80% penalty.

- **Undeclared foreign assets:** *statute of limitations cannot be invoked in the event of ex officio taxation - Decision of the Commercial Chamber of the French Supreme Court ("Cour de cassation") on September 17th, 2025, No.23-10.403*

The Cour de cassation confirms that when a taxpayer holding undeclared bank accounts in Switzerland is subject to *ex officio* taxation, such assets may be characterized as free-acquired assets, subject to a transfer tax at the rate of 60%. The Court further indicates that the statute of limitations cannot apply unless the taxpayer provides sufficient evidence of the origin of the assets.

- **Seizure and trusts:** *the beneficiary does not necessarily have free disposal of the seized assets - Decision of the Criminal Chamber of the Cour de cassation on September 24th, 2025, No.25-80.120*

The Cour de cassation judges that being the beneficial owner of a trust is not sufficient to establish free economic control over assets subject to a criminal seizure of €94 million held by a notary. The Cour de cassation requires a concrete analysis of the trust's operation to determine whether the designated beneficiary exercises effective economic control over the seized assets.





III. INTERNATIONAL TAXATION

- **Foreign companies: *trademark royalties and fees paid to foreign entities are not deductible - Decision of the CAA of Paris on September 19th, 2025, No.24PA03940***

The CAA rules, pursuant to Sections 238 A and 57 of the FTC, that royalties paid by a French company to a related entity established in Luxembourg (benefiting from a favourable tax regime) and fees paid to another related entity established in Hong Kong under a service agreement are not deductible for the computation of the taxable income, as no counterpart is evidenced. The CAA also rules that the 40% penalty for intentional misconduct is applicable.

- **France-Germany tax treaty: *private pensions paid by a German institution are taxable in France - Decision of the CAA of Marseille on September 22nd, 2025, No.25MA00518***

The CAA rules, pursuant to Section 14 of the France-Germany tax treaty, that private pensions of German source received by a French tax resident are taxable in France insofar as they have not been effectively subject to taxation in Germany.

IV. INDIVIDUAL TAXATION

- **Real Estate Wealth Tax ("IFI"): *deductibility of shareholder current accounts - Judgment of the TJ of Compiègne on September 2nd, 2025, No.24/00911***

In accordance with the anti-abuse clause set out in Section 973 II of the FTC, the TJ judges that shareholder current account used by a French real estate company ("SCI") to acquire a real estate property are deductible for IFI purposes. In the case at hand, the TJ judges that the financing arrangement did not have a primarily tax-driven purpose, as the "*structure formed part of a wider estate-planning arrangement involving the set up of two SCIs and the taxpayer's inheritance planning.*"

- **Tax deferral: *reinvestment in subsidiary shares is not eligible - Judgment of the Administrative Tribunal ("TA") of Melun on September 17th, 2025, No.2202625***

The TA rules that, to maintain the tax deferral provided for in Section 150-0 B ter of FTC, the reinvestment must result in acquiring control over a company not previously controlled. Accordingly, reinforcing an existing controlling interest in certain subsidiaries through the acquisition of additional shares does not constitute a qualifying reinvestment within the meaning of the regime.

- **Real estate rental income: *the CAA clarifies the distinction between repair and improvement works - Decision of the CAA of Bordeaux on September 16th, 2025, No.23BX01321***

The CAA clarifies that, for renovation expenses on commercial real estate to be deductible for the computation of the real estate rental income, the taxpayer must demonstrate that the works qualify as repairs or maintenance, rather than improvements or reconstruction. In the case at hand, roof repairs are accepted as deductible expenses, whereas works that altered the structure or original layout of the premises are not.

- **Joint taxation of spouses: *the evidence of a separate residence as of December 31st lies with the French tax authorities - Decision of the CAA of Nancy on September 25th, 2025, No.23NC02073***

The CAA judges that, when the French tax authorities challenge the benefit of joint taxation, it is their responsibility to demonstrate that, as of December 31st, the spouses actually had separate residences under distinct place. In the case at hand, the evidence relied upon by the French tax authorities (lease signing, opening of a gas contract) is deemed insufficient to establish a separate residence.