



TAX NEWSLETTER

December 2025

I. CORPORATE TAXATION

- **Global minimum taxation: the French Tax Authorities ("FTA") clarify the transitional rules of the Pillar 2 regime - BOI-IMG, BOI-IMG-TRANS, BOI-IMG-TRANS-10 and BOI-IMG-TRANS-20 on December 3rd, 2025**

The FTA set out the transitional rules applicable to groups entering the scope of the complementary tax for the first time, concerning the definition of the transition year, the treatment of deferred taxes and transferred assets, and the conditions for the temporary exemption applicable to groups in a launch phase.

- **Losses carryback: it is excluded in the event of a substantial change in the company's actual business activity - Decision of the French Supreme Administrative Court ("CE") on December 23rd, 2025, No. 500342, SARL Immofaq**

The CE reiterates that a change in a company's actual business activity prevents the refund of the carryback tax credit, regardless of whether the company has kept the same identification number in the French National Business Register.

II. TAX AUDIT

- **Tax reassessment notice: notification sent to the former declared address is valid - Decision of the Administrative Court of Appeal ("CAA") of Douai on December 11th, 2025, No. 24DA01606**

The CAA rules that the taxpayer cannot challenge the FTA for sending the tax reassessment notice to the address stated in his tax return, as it is his responsibility to check and correct the declared information prior to its validation.

- **Time limit: notification of a decision to only one of the former spouses does not trigger the time limit for the other - Decision of the CE on December 19th, 2025, No. 499976**

The CE rules that notification of a decision sent to only one of the former spouses does not trigger the time limit for bringing legal proceedings against the other, as they are no longer subject to joint taxation. Accordingly, the time limit may run only if it is established that the person concerned had actual knowledge of the decision.

III. INTERNATIONAL TAXATION

- **Tax residence: the taxpayer's personal and economic ties with France prevail over his professional activity in Italy - Decision of the CAA of Marseille on November 20th, 2025, No. 23MA028**

The CAA judges that a taxpayer must be regarded as a French tax resident when his household and center of his economic interests are located in France, even though he has accommodation in Italy and carries on his professional activity there. The Court further rejects separate taxation of the spouses, as the change to a matrimonial regime of separation of assets occurred after the tax year concerned.

- **Dividends paid to a foreign pension fund: the FTA may not require a certified statement for the refund of Withholding Tax ("WHT") - Decision of the 6th Chamber of the Court of Justice of the European Union ("CJUE") on November 27, 2025, Case C-525/24**

The CJUE rules that Section 63 of the Treaty on the Functioning of the European Union ("TFEU") does not prohibit requiring, in order to benefit from an exemption from WHT, a declaration certified by the supervisory authority of the State of residence, provided that such a declaration can be obtained within a reasonable time and that no less restrictive measure exists. However, Section 63 of the TFEU precludes that same certificate from being required to obtain a refund of tax already withheld.





- **Deemed distributed income: *payment of expenses from foreign subsidiaries without recharge is subject to WHT - Decision of CE on December 3rd, 2025, No. 451466***

The CE rules, in a France–China context, that the holding by a parent company of expenses incurred by its foreign subsidiaries, without recharge or consideration, does not constitute a dividend but rather a deemed distributed income subject to WHT in France, pursuant to Sections 111(c) and 119 bis of the French General Tax Code (“FTC”) and the “other income” clause of the France–China tax treaty.

- **Royalties within the meaning of tax treaties: *payments for the use of intangible rights do not constitute business profits - Decision of the CE on December 15th, 2025, No. 497803 and No. 497804, Société Planet***

The CE judges that payments made in consideration for the exploitation of trademarks, know-how and other intangible rights must be classified as royalties within the meaning of the applicable tax treaties and may, as such, be subject to WHT in France. The beneficial owner of such royalties is the entity that actually has the right to dispose of the income, and not intermediary companies acting merely as distributors.

IV. INDIVIDUAL TAXATION

- **Capital gains on securities: *a capital loss under the personal regime cannot be offset against a capital gain under a professional regime - Decision of the CE on November 21st, 2025, No. 505354***

The CE recalls that a capital loss subject to the personal tax regime cannot be offset against a capital gain subject to a professional tax regime, without this limitation infringing the principle of equality before taxation or the right to property.

- **Estate liabilities: *the granted by the deceased's debit current account with its real estate look through company (“SCI”) in which his heirs are also partners, is not deductible - Decision of the Commercial Chamber of the Court of Cassation on November 26th, 2025, No. 23-23.086***

The Court judges that a loan granted to the deceased by his SCI in which his heirs are also partners must be regarded as granted **by the deceased to his heirs through** intermediary persons within the meaning of Sections 773, 2° of the FTC and **911 of the French Civil Code**. The Court confirms that the concept of an intermediary person is not limited to natural persons and that a legal entity may qualify as such where its structure reveals a direct interest for the heirs, thereby excluding the deduction of the debt from the taxable estate, including for wealth tax purposes.

- **Exit tax: *enforceability of deferred taxation requires compliance with procedural guarantees - Decision of the CE on December 15th, 2025, No. 495783***

The CE judges that, regarding transfers of tax residence occurring before January 1st, 2005, deferred taxation may become immediately payable only if the FTA have fulfilled the procedural guarantees provided by law, in particular the prior issuance of a formal notice in the event of a failure to declare.

- **Life insurance: *social security contributions payable upon death constitute a debt deductible from the estate - Judgement of the Paris Court of Justice (“TJ”) on December 16th, 2025, No. 24/10931***

The TJ judges that social security contributions payable by the policyholder-insured upon the settlement by death of a unit-linked life insurance policy constitute a definite debt of the deceased, deductible from the estate. The exclusions provided for in Sections 769 and 773 of the FTC do not apply in this context.

- **Contribution Sociale Généralisée (“CSG”): *the rate on certain capital income is increased - Section 12 of the Social Security Financing Act (LFSS) 2025-1403 on December 30th, 2025***

The LFSS for 2026 raises the CSG rate applicable to income from assets and investments from 9.2% to 10.6%, with differentiated application depending on whether the income is received in 2025 or 2026. Social security contributions increase from 17.2% to 18.6%, and the flat-rate withholding tax (PFU) increases from 30% to 31.4% for these incomes.