



NEWSLETTER

January 2026

I. CORPORATE TAXATION

- ***Effective place of management: a Luxembourg holding company managing its subsidiary's website and collecting intra-group royalties may have its effective place of management in France - Decision of the Administrative Court of Appeal ("CAA") of Versailles on January 8th, 2026, No.23VE00165***

The CAA rules that a Luxembourg holding company, lacking premises, staff, and decision-making autonomy in Luxembourg, in fact has its effective place of management in France insofar as its director takes strategic decisions and negotiates licensing agreements from France. The CAA consequently confirms Corporate Income Tax ("CIT") and VAT's reassessments in France, as well as the 80% penalty for hidden activity, the holding company having neither declared its activity nor demonstrated a good-faith error.

- ***Tax consolidation: no horizontal tax consolidation between companies held by the same Swiss parent company - Decision of the French Supreme Administrative Court ("CE") on January 20th, 2026, No.493939, Sté Liebherr-Aerospace et Transportation***

The CE rules that Section 223 A of the French general Tax Code ("FTC") denies horizontal tax consolidation between French sister companies held by a Swiss holding company without constituting discrimination, since under European Union ("EU") law the parent company is required to be established within the EU or the European Economic Area.

II. TAX AUDIT

- ***Abnormal Act of Management ("AAG"): it is characterized in the event of the quasi-free rental of a villa to the company's director - Decision of the CAA of Marseille on Decembre 18th, 2025, No.23MA02709, SA Les Epinettes***

The CAA rules that a Swiss company subject to CIT commits an AAG when it rents a villa to its director on a quasi-free basis, whereas - given the exceptional characteristics of the property and the evidence produced - the Court considers that the rate of return on this villa would amount to 3%.

- ***Foreign bank accounts: the authority of res judicata is binding on the tax jurisdiction - Decision of the Court of Appeal ("CA") of Paris on January 15th, 2026, No.24/15291***

The CA rules that the criminal acquittal, which definitively found that the taxpayer was not the holder of the foreign bank accounts at issue, is binding on the tax judge and leads to the discharge of the reassessments of gift and inheritance tax ("DMTG") based on those same accounts.

- ***Abuse of law: it is not established in the context of a temporary transfer of usufruct where the flow of funds is genuine - Judgment of the Administrative Tribunal ("TA") of Marseille on January 15th, 2026, No.2305117***

The TA judges that the temporary transfer of the usufruct of shares in a real estate company ("SCI"), combined with a statutory cap on distributions, does not constitute an abuse of law insofar as the usufructuary actually receives the income distributions and the bare owner is deprived of any economic control over such income. The TA adds that this transaction does not constitute an abuse of law, particularly since the French Tax Authorities ("FTA") fail to establish either the artificial nature of the arrangement or the existence of an exclusively tax-driven purpose.





III. INTERNATIONAL TAXATION

- **Trusts: the existence of significant distributions is sufficient to establish the beneficiary's ability to pay French real estate wealth tax ("IFI") - Judgment of the Paris Court of Justice ("TJ") on December 11th, 2025, No.23/00260**

The beneficiary of a trust is liable for IFI on the real estate assets held by the trust as he receives significant distributions, which are sufficient to establish his ability to pay within the meaning of the case law (QPC No. 2017-679), notwithstanding the irrevocable nature of the trust and the trustee's discretionary powers.

- **France-Monaco tax treaty: a taxpayer born in Monaco who moves out of Monaco for a period loses the benefit of the treaty provisions regarding tax residence - Decision of CE on December 30th, 2025, No.506795**

The CE refuses to admit the taxpayer's appeal, after the CAA judged that the interruption of residence in Monaco between 1978 and 1983, despite the taxpayer having been born there, was sufficient to characterize a transfer of tax residence to France within the meaning of the France-Monaco tax treaty. The CE considers that the existence of a prior decision recognizing the taxpayer's Monegasque residence for other years is not binding on the judge for the period in dispute.

- **Foreign bank accounts: the fine applies to undeclared sub-accounts - Decision of the CAA of Versailles on January 6th, 2026, No.25VE01696**

The CAA confirms three €1,500 fines for failure to declare foreign bank sub-accounts, each sub-account having operated independently and been closed on different dates, which justifies treating them as three separate accounts.

- **Access to bank data: the tax authorities must provide the taxpayer with sufficient safeguards - Decisions of the European Court of Human Rights ("ECHR") on January 6th, 2026, No.40607/19 and No.34583/20 Ferrieri et Bonassisa c. Italie**

The ECHR rules against Italy for allowing its tax authorities to access taxpayers' bank data based on internal authorization alone, without sufficient precise legal basis or an independent and effective remedy, and orders Italy to establish clear criteria and independent oversight, including within the framework of international cooperation.

IV. INDIVIDUAL TAXATION

- **DMTG: the CA rules on the methods for valuing the shares of a holding company owning listed shares - Decision of the CA of Paris on December 18th, 2025, No.23/06946**

The CA holds that, with regard to a holding company owning exclusively listed shares, the market value to be used for DMTG purposes may be determined by the net asset value based on the stock market price on the date of the taxable event. Accordingly, the Court dismisses the taxpayer's valuation method, which relied on internal prices set out in the companies' internal regulations.

- **Settlement indemnity upon employment contract's termination: it is taxable when it compensates the waiver of legal action - Decision of the 9th Chamber of the CE on January 13th, 2026, No.506430**

The CE refuses to admit the appeal of a dismissed employee who challenged the taxation of the €100,000 settlement indemnity he received, arguing that the amount should be exempted under Section 80 *duodecies* of the FTC and its compensatory nature. The CAA had ruled that, in the absence of recognition of any damage by the employer or admitted liability, this sum compensated the waiver of legal action and constituted taxable income.

- **Capital gains: exclusion from the enhanced allowance under Section 150-0 D, 1 quater of the FTC in the case of taking over a pre-existing business - Judgment of the TA of Toulon on January 19th, 2026, No.2402370**

The TA judges that a company taking over an existing business (brand, clientele, equipment) does not constitute a genuinely new enterprise and therefore cannot benefit from the enhanced allowance reserved for true business creations.