



NEWSLETTER

February 2026

I. CORPORATE TAXATION

- **Corporate Income Tax ("CIT"): tax installment for companies with investment income is simplified - BOI-IS-DECLA-20-30 on January 21st, 2026**
The election for the computation of the CIT's installment based on the prior year's net tax income is deemed accepted by the French Tax Authorities ("FTA") in the absence of express opposition and applies by tacit renewal each year.
- **Excessive remuneration: sectoral comparison with local businesses is sufficient - Decision of the Administrative Court of Appeal ("CAA") on February 2nd, 2026, No.25DA00923**
The CAA confirms the disallowance of the deduction of a portion of a manager's remuneration following a comparison with three similar companies in the same geographical area, ruling that these comparables were sufficiently close in terms of turnover and business activity.
- **Management fees: the intent to remunerate must be demonstrated - Decision of the French Administrative Supreme Court ("CE") on February 12th, 2026, No.500842, Société Kerac**
The CE considers that, while the deduction - as management fees - of sums paid under a service agreement is indeed possible, the court must verify whether the corporate bodies actually intended to remunerate the executive through these payments. The simple financial equivalence between former salaries and new fees is not sufficient to justify deductibility.
- **Finance Act for 2026 ("2026 FA"): private holding companies are subject to a 20% tax - Section 7 of Law No.2026-103 on February 19th, 2026.**
The 2026 FA introduces an annual 20% tax on certain assets not allocated to an operational activity (vehicles, yachts, jewelry, precious metals, racehorses) held by CIT companies. It applies to companies whose assets exceed €5 million, which are more than 50% owned by natural persons and which receive more than 50% of passive income.

II. TAX AUDIT

- **Abnormal Act of Management ("AAG"): it is characterized by a loan repaying a shareholder's debt even if it allowed the acquisition of a corporate asset - Judgment of the Administrative Tribunal ("TA") of Paris on January 28th, 2026, No.2411561**
The TA judges that the taking out of a loan by a company for the primary purpose of allowing a shareholder to repay personal debts characterizes an AAG, regardless of whether the shareholder's initial debt was used to acquire an asset for the company.
- **Abuse of law: it is not characterized by an intra-group restructuring - Decision of the CE on February 18th, 2026, No.500134, SE Aubépar Industries**
The CE dismisses the abuse of law in a scheme involving a significant distribution of dividends under the parent-subsidary regime after an asset drop-down. The exclusively tax-driven purpose was not demonstrated by the FTA insofar as the transactions were part of a genuine reorganization aimed at refocusing the subsidiary on real estate management, which it effectively completed.
- **Surcharge of 80% for fraudulent acts: the taxpayer's specialization in tax schemes is insufficient - Decision of the CE on February 18th, 2025, No.498332**
The CE rules that a company's expertise in French Overseas Territories tax exemption schemes does not allow for the presumption of knowledge of the fictitious nature of an invoice. To apply the 80% surcharge, the FTA must provide proof that the taxpayer knowingly used a fictitious invoice to obstruct the audit.





III. INTERNATIONAL TAXATION

- **Royalties paid to a foreign company: they are only deductible if the reality of the service is demonstrated - Judgment of the TA of Montreuil on January 13th, 2026, No.2201142, Société Sakar**
The TA judges that royalties paid to a Cypriot entity subject to a privileged tax regime are not deductible in the absence of a demonstration of the reality of the trademark defense services.
- **Effective place of management: a Luxembourg holding company whose strategy is decided in France is a French permanent establishment - Judgment of the TA of Paris on January 28th, 2026, No.2413029**
The TA confirms the recharacterization of a Luxembourg holding company as a French permanent establishment because of the lack of material resources in Luxembourg and the fact that the French shareholder takes all strategic decisions from France, acting as a *de facto* manager.
- **Trusts: the sui generis levy does not fall within the scope of the France-Canada tax treaty - Decision of the Commercial Chamber of the French Supreme Court (“Cour de cassation”) on February 11th, 2026, No.23-14.305**
The Court overturns the judgment which had exempted a taxpayer from the levy on trusts based on the stipulations of the France-Canada tax treaty on the grounds that the lower courts had not sufficiently demonstrated that this specific levy falls within the scope of the taxes covered by the treaty.
- **Real estate capital gains of non-residents: the tax base of the levy under Section 244 bis A of the French Tax Code (“FTC”) is clarified - Decision of the CE on February 24th, 2026, No.496482**
The tax base of the levy on the real estate capital gains of non French tax residents subject to CIT cannot be increased solely on the grounds that the sale price is lower than the actual value, unless it is demonstrated that it is not the price actually agreed upon by the parties.
- **Foreign parent company: the application of Section 123 bis of the FTC does not exclude the benefit of the parent-subsidiary regime - Judgment of the TA of Nantes on February 26th, 2026, No.2106565**
The TA judges that dividends paid by a French subsidiary to a single-member Delaware LLC are taxable in France pursuant to Section 123 bis of the FTC, but that it remains permissible to apply the parent-subsidiary regime to determine the taxable base.

IV. INDIVIDUAL TAXATION

- **Manager’s retirement: the disposal of shares is not a liquidation bonus - Decision of the CAA of Douai on February 16th, 2026, No.24DA02388**
The CAA judges that the disposal of shares by a retiring manager should not be recharacterized as a liquidation bonus, even when the company has ceased its activity. However, the benefit of the enhanced abatement was to be dismissed, as the company no longer exercised operational activity at the time of disposal.
- **Life insurance: social security contributions upon death are a debt of the deceased deductible from the estate assets - Decision of the CE on February 18th, 2026, No.504077**
The CE confirms that social security contributions due upon death on unit-linked gains are the responsibility of the policyholder and not the beneficiary. They therefore constitute a certain debt of the deceased on the day of death, which allows their deduction from the taxable estate.
- **2026 FA: individual taxation has evolved - Articles 2, 4, 8 and 11 of Law 2026-103 of February 19th, 2026**
The brackets of the personal income tax scale are revalued by 0.9% to neutralize inflation on 2025 income, and the Differential Contribution on High Incomes is extended until the public deficit returns below 3%.
The duration of the individual retention commitment under the Dutreil Pact is extended to 6 years (total retention period of 8 years). Non-operational assets (luxury vehicles, horses, etc.) are now excluded from the base of the 75% exemption.
Maintaining the tax deferral under Section 150-0 B ter of the FTC now requires a 70% reinvestment within 3 years; real estate management, rental and property dealer activities are now excluded from eligible reinvestment. Assets acquired as part of the reinvestment must be held for 5 years.