NEWSLETTER

March 2026

I. CORPORATE TAXATION

- **Misappropriation of funds:** ***funds extorted from a manager may be deducted from the Corporate Income Tax ("CIT") basis - Decision of the French Administrative Supreme Court ("CE") on March 13th, 2026, No.499320, Sté V.L***
  The CE clarifies that losses resulting from misappropriation of funds are, in principle, deductible when they are caused by third parties or by a manager acting under constraints. In this context, the CE considers that funds extorted by a third party from a company, through its manager who was subject to threats, constitute deductible losses for CIT purposes, without such extortion having, however, any impact on the liability of these amounts to VAT.

II. TAX AUDIT

- **Abnormal Act of Management ("AAG"):** ***it is characterized by the free provision of a villa to the manager and not by its subsequent sale at an undervalue - Decisions of the Administrative Court of Appeal ("CAA") of Marseille on March 5th, 2026, No.24MA02869 and No.24MA02870,***
  The CAA judges that the free provision of a villa by an SARL subject to CIT to its manager, who is not a French tax resident, constitutes an AAG. According to the CAA, the significant expenses (water and electricity consumption, maintenance contract, works) associated with this free provision reveal a benefit granted without consideration and characterize distributed income subject to withholding tax. The CAA holds, however, that the subsequent sale of the villa to a couple of individuals, at a price below its fair market value, does not constitute an AAG, as the French Tax Authorities ("**FTA**") do not demonstrate the existence of a gratuitous transfer nor of any relationship of interest between the purchasers and the SARL.

- **Abuse of law and AAG:** ***the CE rules on a financing scheme aimed at double non-taxation (the "Carignan" financial scheme) - Decision of the CE of Paris on March 12th, 2026, No.492888, SA BNP Paribas***
  The CE considers that BNP Paribas's acquisition of an equity interest in the Luxembourg SNC Grenache et Cie constitutes an artificial scheme allowing expenses to be deducted in France while locating the income in Luxembourg, resulting in double non-taxation which characterizes both an abuse of law and an AAG. The CE holds that the first judges were entitled, without requiring the most burdensome tax route or overestimating the economic loss, to consider that the capital gains allegedly sought by BNP Paribas were not the actual objective pursued and were not sufficient to justify the economic rationale of the scheme.

III. INTERNATIONAL TAXATION

- **Non-residents' real estate income:** ***they are subject to social security levies, including in the case of furnished premises - Decision of the CE on March 13th, 2026, No. 503496***
  The CE holds that taxpayers who are not French tax residents are liable to the solidarity levy provided for in Section 235 ter of the French Tax Code ("**FTC**") in respect of rents derived from the renting of a furnished villa located in France, insofar as these are income from immovable property located in France within the meaning of Section 164 B, I, a of the FTC. For the CE, the fact that these rents are taxed in the category of industrial and commercial benefits rather than in that of real estate income is irrelevant.

- **Section 123 bis of the FTC:** ***it applies where there is an artificial scheme involving a Lebanese company - Judgement of the Administrative Tribunal ("TA") of Paris on March 18th, 2026, No.2422648***
  The TA judges that a taxpayer whose tax residence is located in France, where he has his home and the center of his economic interests, and who holds shares in the Lebanese company GFI - which is liable to a preferential tax regime, has no economic substance, and is used as a vehicle for holding financial assets

for his benefit - is taxable in France pursuant to Section 123 bis of the FTC. According to the TA, the interposition of this Lebanese company constitutes an artificial scheme designed to evade tax, justifying an 80% surcharge for fraudulent conduct.

IV. INDIVIDUAL TAXATION

- **Inheritance tax:** ***the sale of a real estate asset after death may justify an adjustment of its value in the inheritance tax return - Judgement of the Bordeaux Court of Justice ("TJ") on February 23rd, 2026, No.25/06170***
  The TJ judges that the sale of an apartment a few months after the death, for a price lower than that reported in the inheritance tax return, constitutes a relevant comparable transaction for revising its fair market value and consequently grants the heirs a refund of the excess transfer duties paid. The TJ recalls that a revision of the declared value may only be justified by reference to sales of assets that are intrinsically similar and concluded within a time frame close to the transfer at issue.

- **Tax deferral:** ***the reinvestment is ineligible where control was previously held indirectly - Decisions of the CAA of Lyon on March 12th, 2026, No. 25LY00765 and No.25LY00766***
  The CAA judges that the reinvestment of the sale proceeds made by a top holding company ("*surholding*") in the acquisition of shares in operating companies already indirectly held via a holding company in which it owns 50% does not constitute a reinvestment eligible for maintaining the tax deferral under Section 150-0 B ter of the FTC. The CAA judges that the direct acquisition of these shares did not confer new control, but merely transformed pre-existing control into exclusive control, intended to facilitate the transfer of assets upon the father's retirement.

- **Conventional quasi-usufruct:** ***usufructuaries of dismembered shares are taxable on the capital gain despite subsequent reinvestment - Decision of the CE on March 12th, 2026, No.497808***
  The CE clarifies that the capital gain arising from the sale of dismembered shares must be fully taxed in the hands of the usufructuaries where the deeds of gift provide for a quasi-usufruct over the sale price, and that the subsequent reinvestment of this price in capitalization contracts has no impact on this qualification.

- **Canadian trust:** ***amounts paid to a French tax resident are taxable income - Decision of the CE on March 13th, 2026, No.500318***
  The CE considers that the amounts paid to a taxpayer by an irrevocable and discretionary Canadian trust are taxable as income and confirms the decision of the CAA, which was entitled to find willful default insofar as the taxpayer did not demonstrate, in particular by producing the trust's accounts, that these payments were redistributions that had already been taxed or mere capital transfers. The CE considers that, regarding the scale of the flows and their presentation as simple capital transfers, the CAA was entitled consider the taxpayer as having knowingly concealed taxable income.

- **Taxable income in the presence of a trust:** ***inheritance tax and liquidation surplus tax paid by the beneficiary are not deductible expenses - Decision of the CAA of Versailles on March 26th, 2026, No.24VE00035***
  The CAA judges that the inheritance tax paid and the tax on the liquidation surplus of a trust do not constitute deductible expenses within the meaning of Section 13 of the FTC, as they are not intended to acquire or preserve income but capital. The CAA therefore finds that these expenses cannot be offset against the beneficiary's taxable income.