NEWSLETTER

April 2026

I. CORPORATE TAXATION

- **Offsetting of tax losses:** ***the former parent company remains subject to the ordinary capping - Decision of the Administrative Court of Appeal ("CAA") of Paris on April 3rd, 2026, No.24PA05142, SAS Club Med Holding***

  The CAA judges that the former parent company of a consolidated tax group whose subsidiaries join a new group may combine the offsetting of the consolidated tax loss against its own results, as provided for by Sections 223 I, 1-a and 223 S of the French Tax Code ("**FTC**"), and the offsetting against the broadened base provided for by Section 223 I, 5 of the FTC. The CAA holds, however, that this combination cannot result in the offsetting of losses for an amount exceeding the standard capping provided for in Section 209, I, paragraph 3 of the FTC.

- **Non-commercial waivers of debt:** ***they are not deductible in the absence of significant commercial relations with the beneficiary company - Decision of the CAA of Douai on April 7th, 2026, No.25DA00351, SAS Société d'Investissement du Groupe Lenormant (SIGLE)***

  The CAA judges that a waiver of debt does not have a deductible commercial character where the share of turnover generated with the beneficiary company is below 0.17%. The CAA specifies that there is no need to carry out an assessment at the group level, either to characterize the commercial interest or to assess the net financial position of the benefiting company.

II. TAX AUDIT

- **Tax ruling:** ***the refusal of the French Tax Authorities ("FTA") constitutes an appealable adverse decision - Judgement of the Administrative Tribunal ("TA") of Versailles on April 16th, 2026, No.2507273***

  The TA judges that the refusal opposed by the FTA to a tax ruling request concerning the eligibility of an investment for the tax credit provided for in Section 244 quater E of the FTC constitutes an adverse decision subject to appeal where the FTA do not dispute the precise, complete and good-faith nature of the request.

- **Management fees:** ***the mere insufficiency of the taxpayer's responses is not sufficient to justify the reinstatement of the expense - Decision of the 9th Chamber of the CE on April 21st, 2026, No.506209***

  The CE judges that where the FTA does not call into question the reality of the services but only contests their amount, the mere circumstance that the company has not sufficiently responded to requests for explanations is not enough to justify the reinstatement of the expense, insofar as the FTA must provide before the court all evidence supporting its challenge.

III. INTERNATIONAL TAXATION

- **Remote working in a Franco-German context:** ***the salary of a German teacher employed in Paris is fully taxable in France - Judgement of the TA of Paris on April 7th, 2026, No.2314176***

  The TA judges that a German national teacher domiciled in France within the meaning of Section 4 B of the FTC, but whose residence is attributed to Germany pursuant to the France-Germany tax treaty (criterion of nationality, in the absence of an identifiable center of vital interests), remains taxable in France on the entirety of her employment income, with no pro rata for days teleworked from Germany. For the

TA, the employment is exercised in France within the meaning of the treaty, remote working from Germany merely constituting a means of performance, and the taxpayer does not otherwise meet the conditions of the 183-day exception.

- **Withholding tax ("WHT"):** ***the tax transparency of a U.S. LLC justifies the application of the WHT - Decision of the CAA of Marseille on April 16th, 2026, No.24MA02843, SAS Bbryance***

  The CAA judges that commissions paid by a French company to a U.S. LLC are subject to the WHT provided for in Section 182 B of the FTC, given the LLC's tax transparency and the fact that its income is deemed to be earned directly by its sole partner, who is a French tax resident. Accordingly, for the CAA, the France-U.S. tax treaty cannot be invoked, all the more so since the LLC does not have a permanent establishment in France, the exercise by its sole partner of an activity from France not being sufficient, on its own, to characterize a fixed place of business in France.

- **Social Security Levies ("SSL") of French nationals residing in Monaco:** ***although deemed to be tax resident in France for Personal Income Tax ("PIT") purposes by the France-Monaco treaty, they are not subject to the SSL - Decision of the CAA of Marseille on April 16th, 2026, No.24MA02294***

  The CAA judges that the stipulations of the France-Monaco tax treaty, which lead to certain French nationals of Monaco being regarded as tax resident in France for PIT purposes, are not sufficient to support their liability to SSL, which is conditional upon tax domiciliation within the meaning of Section 4 B of the FTC.

IV. INDIVIDUAL TAXATION

- **Real estate gains:** ***the principal residence exemption is denied in the absence of evidence of actual and habitual occupation - Decision of the CE on April 8th, 2026, No.508061***

  The CE refuses to admit the appeal lodged against the decision of the CAA of Paris of July 9, 2025, No.24PA00547, considering that the seller did not demonstrate that the studio sold in 2016 constituted his actual and habitual principal residence within the meaning of Section 150 U, II-1° of the FTC. Several factors ruled out an actual occupation, namely the successive declaration of several studios as principal residence, the creation of an appearance of domiciliation at another address, as well as material indications (use of the property as an office, low electricity consumption) incompatible with an actual occupation.

- **Contribution-sale transaction:** ***reinvestment in a shareholder's current account is ineligible for lack of direct financing of fixed assets - Decision of the CAA of Lyon on April 16th, 2026, No.24LY03492***

  The CAA holds that the advances on a shareholder's current account granted by a holding company to an operating subsidiary less than three years after the contribution-sale do not constitute a reinvestment eligible for maintaining the tax deferral provided for in Section 150-0 B ter of the FTC. The CAA notes that the taxpayer does not establish that these contributions were directly used to finance the fixed assets of the benefiting company. Consequently, these contributions are of a private-asset management nature.

- **Enhanced abatement:** ***it does not apply where the managing holding company condition has not been met since the company's incorporation - Decision of the CAA of Lyon on April 16th, 2026, No.24LY02196***

  The CAA holds that the enhanced 85% abatement provided for in Section 150-0 D, 1 quater, B, 1°, f of the FTC on capital gains arising from the sale of shares in a holding company requires that company to have carried out a management activity within the group continuously since its incorporation. The CAA accordingly confirms the challenge to the abatement, noting that, at its creation, the company had as its sole purpose family wealth management and could therefore not be qualified as an eligible holding-animator company.