NEWSLETTER

July & August 2026

I. CORPORATE TAXATION

- **Interest rate:** ***the deduction of interest at the market rate is extended to advances granted by certain individual shareholders - BOI-IS-BASE-35-20 of July 15th, 2026***
  The French Tax Authorities ("**FTA**") now accept the deduction of interest at the market rate, where it exceeds the reference rate provided for in Section 39, 1-3° of the French Tax Code ("**FTC**"), for advances granted by individual shareholders having the status of an enterprise, subject to the twofold condition that the shares of the borrowing company be recorded in its professional assets and that the sums left or made available originate from its professional assets. Individual shareholders for whom the holding of the shares does not constitute professional activity remain subject to the reference rate provided for in Section 39 of the FTC.

II. TAX AUDIT

- **3% tax on real estate:** ***the fiduciary is not a shareholder within the meaning of Section 990 E of the FTC and the guidelines allowing regularization within 30 days of the formal notice are enforceable against the FTA - Decision of the Commercial Chamber of the French Judicial Supreme Court ("Cour de cassation") on July 8th, 2026, No.25-12.737***
  The Cour de cassation rules, on the one hand, that the FTA guidelines allowing taxpayers to avoid the 3% tax where their situation is regularized within 30 days of the first formal notice are enforceable against the FTA on the basis of Section L. 80 A of the French Tax Procedure Code ("**LPF**") and, on the other hand, that the fiduciary cannot be regarded as a shareholder for the purposes of Section 990 E of the FTC since, for French Wealth Tax ("**ISF**") purposes, the assets transferred to the *fiducie* are not included in the fiduciary's estate.

- **Abuse of law:** ***it is characterized where a chain of transactions involving companies wholly or partly devoid of substance is carried out to neutralize a real estate capital gain - Decision of the Administrative Court of Appeal ("CAA") of Versailles on July 16th, 2026, No.23VE02009***
  The CAA qualifies as abuse of law the chain, within the same group, of transactions carried out between companies with little or no substance which enabled, through a retroactive universal transfer of assets and liabilities ("**TUP**") and the application of the parent-subsidiary regime, to almost entirely neutralized the taxation of a real estate capital gain. The Court notes the absence of purpose other than a tax one and confirms the 80% penalty, the company being regarded as the main beneficiary and the instigator of the scheme.

- **Statute of limitations:** ***the filing, even spontaneous, of an amended tax return after the termination of the reassessment period does not constitute a tacit renunciation of the acquired statute of limitation - Decision of the 9th and 10th chambers of the French Administrative Supreme Court ("CE") on July 22nd, 2026, No.510817***
  The CE considers that the spontaneous filing by the beneficiary of a Jersey trust of amended tax returns after the termination of the ten-year reassessment period does not, on its own, amount to a tacit renunciation of the acquired limitation. Such a renunciation requires that the taxpayer's intention to abandon the statute of limitations be unequivocally established.

III. INTERNATIONAL TAXATION

- **Favourable tax regime:** ***in order to assess its existence within the meaning of Sections 123 bis and 238 A of the FTC, the FTA may exceptionally set aside the parent-subsidiary regime provided that a fraud on the law is established - Decision of the 3rd and 8th chambers of the CE on June 30th, 2026, No.496618***
  The CE rules that the parent-subsidiary regime, although optional, falls within the ordinary conditions of taxation in France and must be taken into account when assessing the existence of a favourable tax regime within the meaning of Sections 123 bis and 238 A of the FTC. However, where the abuse

of law procedure (Section L. 64 of the LPF) cannot be used, the FTA may, based on the general principle of repression of fraud on the law, refuse the application of this regime. In the case at hand, the CE nevertheless holds that the FTA did not establish the existence of such fraud.

- **Section 123 bis of the FTC: *the profits of a Luxembourg company comparable to a single-member limited liability company ("EURL") falling automatically under Section 8 of the FTC cannot be taxed on the basis of Section 123 bis - Decision of the 3rd and 8th chambers of the CE on July 6th, 2026, No.501276***
  The CE rules that a Luxembourg single-member SARL is comparable to an EURL falling automatically within the partnership regime of Section 8 of the FTC, in the absence of an election for Corporate Income Tax ("**CIT**"), since its capital is divided into shares which are not freely transferable, its liability is limited to the contributions and it requires a sole individual shareholder. Consequently, its profits are taxable directly in the hands of the shareholder and Section 123 bis of the FTC cannot apply to tax them as deemed distributed income from movable capital.

- **Foreign bank accounts: *the reporting obligation applies to accounts opened in the name of a foreign commercial company which are effectively used by the taxpayer - Judgement of the Administrative Tribunal ("TA") of Paris on July 15th, 2026, Nos.2519027 and 2519410***
  The TA judges that the reporting obligation provided for in Section 1649 A of the FTC applies to bank accounts opened abroad in the name of a U.S. commercial company if they are effectively used by a French tax resident. The fact that the accounts are held in the name of the companies is irrelevant since the taxpayers were the sole signatories and shareholders of the companies holding the accounts, one of them also being a director, and the accounts had actually been used.

IV. INDIVIDUAL TAXATION

- **Contribution-sale transaction: *a reinvestment of only 47% at the end of the two-year period is not sufficient to maintain the tax deferral provided for in Section 150-0 B ter of the FTC, and social security levies must be assessed at the rate applying during the year of the event ending the deferral - Decision of the CAA of Lyon on June 30th, 2026, No.24LY02184***
  The CAA holds that a 47% reinvestment at the end of the two-year period cannot be regularized by a reinvestment increased to 88% two months later, whatever the difficulties invoked to complete the investment in time. Surprisingly, the CAA sets aside, as regards social security levies, the application of the rate in effect in the year of the contribution and holds that, while the tax base rules are those applicable in the year the capital gain is realized, the assessment rules are those in effect during the year of the event ending the deferral.

- **Capital reduction following a contribution benefiting from the rollover relief: *the repayment is exempt only in proportion to the historical acquisition price of the contributed shares - Decision of the CAA of Paris on July 2nd, 2026, No.25PA03367***
  The CAA recalls that the shares received in consideration for a contribution placed under the rollover regime of Section 150-0 B of the FTC are deemed acquired under the conditions of the contributed shares. Consequently, in case of a capital reduction not motivated by losses and where the profits and reserves have previously been distributed, the corresponding repayment is exempt only up to the ratio between the acquisition price of the contributed shares and the value at which the contribution was recorded in the accounts of the beneficiary company, the surplus constituting distributed income taxable on the basis of Section 120, 3° of the FTC.

- **Tax recall of prior gifts: *gifts made by the deceased to a renouncing heir are not taken into account when assessing the inheritance tax due by his representatives - Decision of the Commercial Chamber of the Cour de cassation on July 8th, 2026, No.25-13.219***
  The Cour de cassation rules that the direct-line representatives of a renouncing heir, who do not have the status of donees, heirs or legatees of the deceased within the meaning of Section 784 of the FTC, must be taxed personally according to their relationship with the deceased, without the gifts previously made to the renouncing heir being applicable to them for the purposes of the gift and inheritance tax scale.