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New residents in France will not only be subject to income tax

In the first part of this series of articles, we have advised on the rules under which the French Tax Authorities will treat a newcomer to France as a French tax resident and therefore will subject his incomes to taxation.

A newly French tax resident will not only be subject to income taxation but also to capital taxation. The taxation of the capital adds to the tax burden of French tax residents especially those who have lived in Dubai for a long period of time and accumulated assets which will be taxable in France during their life (real estate assets will be subject to IFI) and at the end of their life (all assets will be subject to succession duties).

1. Inheritance tax

We will draw your attention to some key aspects

- a. As a matter of principle succession duties are applicable in France if the deceased is the heir and/or the assets are in France. Therefore, even if the deceased or heir are not French tax residents, French succession duties might be applicable if the assets are "French".

France has few tax treaties dealing with gifts and succession and the risk of being taxed twice in France and in the countries where your assets are located must not be underestimated. Proper tax planning is of the utmost importance.

- b. In France, the devolution of an estate is strictly regulated. As a rule, the children of the deceased must receive equal shares of the estate subject to a limited freedom whereby the deceased can leave up to one quarter of his assets to whomever he wishes.



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- c. It is important to keep in mind that gifts to spouses are taxable in France. If you are planning to make a gift to your wife, you had better do it before you become a French resident.

If you intend to avoid these rules it might be advisable to make gifts to your beloved wife before you return to France.

2. Wealth tax on Real Estate

Another important feature of the taxation of capital in France is wealth tax on real estate

A French resident is liable to pay wealth tax on all his worldwide properties. The tax rates start at 0.5% on holdings worth more than € 1.3 million and increases progressively to 1.5% on net property wealth over € 10 million.

As a newly arrived taxpayer, you are granted a five year grace period during which you are taxed only on your French-based properties. Your principal residence in France is allowed a discount of 30% of its value. Non-French residents are liable to wealth tax but on the French residences.

Bank debt is the most efficient tool for reducing taxable values for IFI purposes. There are however now strict limits to the amount of debt which can be taken into consideration.

- Loans reimbursable by a one-off balloon payment at the end of the loan terms are reduced in proportion to the duration of the terms remaining.
- Loans of no-fixed term for repayments are reduced by reference to a deemed term of 20 years.
- Loans made by family members or family controlled companies are non-deductible for wealth tax in principle.



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- If the taxable wealth is more than € 5.000.000 and the debts are more than 60% of that, the amount of the deductible debt exceeding the threshold is limited to 50% of the excess.

The third and final part of this series of articles will look at the consequences of moving to France for family having set-up trust structures.

END

Notes to editors:

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Hervé Israël started his career as an auditor at the DVNI (Department of National and International Verification). In 1988, he joined Pechiney and then took responsibility for group tax management for Europe, Asia and South America at Schlumberger Industries. In 1995, he joined the Caisse Nationale du Crédit Agricole, then became international tax manager at BNP-Paribas. Hervé has been admitted to the Paris Bar since 1996 and worked at Salans law firm, before becoming partner in charge of the tax practice of Lovells (now Hogan Lovells) then of Holman Fenwick Willan. In 2014, Hervé joined the Paris office of DLA Piper and then the law office of Bornhauser in 2017 to create and develop the Tax practice for companies and CEOs-Investors. At the same time, he was a lecturer and associate professor in tax law at the University of Paris X Nanterre from 2010 to 2019.

Hervé Israël has been involved for nearly 25 years in the tax structuring of French and international transactions, in particular in the structuring and financing of Merger and Acquisition and LBO transactions, asset financing, securitization and acquisition structuring.

Hervé also advises investment funds, companies and managers, in many sectors such as finance, insurance, aeronautics, real estate, maritime transport and energy.



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Finally, Hervé assists companies and managers/investors in the context of tax audits and litigation procedures.

Hervé is recognized in tax law by Chambers Partners Europe and The Legal 500 for his “spot-on advice”.

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