

Publié le 16 février 2018

INTERNATIONAL MOBILITY NEWSLETTER

Withholding tax system

The French parliament has definitively adopted the 2018 finance law which confirms that the withholding tax at source will be implemented with effect from 1 January 2019.

The withholding tax system will apply to French source compensation whether paid by French or foreign entities. French employers are responsible for withholding on a monthly basis the tax on the amounts of salaries they pay.

For compensation paid by non-French employers, monthly or quarterly income tax pre-payments will be required.

The withholding tax rate will be based on the average income tax rate that applied for the individual taxpayer in the previous year. However, individual taxpayers will be able to elect to apply a “neutral rate” that is based only on the compensation paid to them by their employers.

Individual taxpayers will be required to remit to the tax collector monthly pre-payments of income tax with respect to income such as rental income, business profits, etc.

Taxpayers will still be required to file an income tax return, and pay any additional amounts due or seek a refund of any excess tax paid.

Cabinet BORNHAUSER - Avocats à la Cour

11, rue Portalis - 75008 Paris

Tél. 01 44 29 33 24

cabinetbornhauser@bornhauser-avocats.fr

Publié le 16 février 2018

“White year mechanism”:

Up to now, individual income tax was due with a one-year lag so income tax on 2018 is due in 2019.

Since as of January 1st 2019, French government will put in place a withholding tax operated by employer in order to withhold income tax directly on wages, there is an actual risk of double contribution during 2019 which would create a cash flow issues for tax payers.

In order to avoid this issue, French authorities have set up a mechanism of tax credit on ordinary 2018 income so that during 2019, income tax will be due on current wages received during 2019 and exceptional income received during 2018 only.

So strictly speaking, French taxpayers will have to pay income tax in both 2018 (on 2017 income) and in 2019 (on 2019 income + exceptional 2018 income) but in an economical view, most of the 2018 will not be effectively recovered.

Named “the White Year” in France, this system may turn to be a “Black Year” for **US citizens tax residents in France.**

Individuals from the US are accustomed to getting a foreign tax credit on their US tax returns for tax liabilities accruing in France. For 2018, there will be no or limited tax accruing on their income. So unless they have excess credits carrying forward from a prior year, they will find themselves with a much larger US tax liability in 2018.

Tax credits on a US tax return?

Cabinet BORNHAUSER - Avocats à la Cour

11, rue Portalis - 75008 Paris

Tél. 01 44 29 33 24

cabinetbornhauser@bornhauser-avocats.fr

Publié le 16 février 2018

As is common for a US person (citizen or lawful permanent resident/greencard holder) who lives and works abroad for an extended period of time, he/she will continue to be held to the US income tax laws as resident of the United States, filing Form 1040 and reporting worldwide income on an annual basis. When a US person is required to pay tax in that host country, they are eligible for foreign tax credit on the US income tax return to prevent double taxation.

In order to claim the tax credit, an individual can choose the accrued or paid method to report the tax due to the other country. When a country withholds income tax each period throughout the year, it is common to use the paid method for the credit on the US return. When a country, such as France under prior regulations, does not withhold, it is common to accrue the tax credit. Therefore, up until now, most US individuals in France have accrued the tax on the US tax return each year to match the correct tax liability incurred there even if not paid in the same year. If France implements the exceptional credit for 2018, there will be no tax associated with the non-exceptional income in that year to accrue and offset the 2018 US tax. Therefore, US persons will find themselves owing more tax to the IRS than usual.

Accordingly, an expected larger than usual balance will be due with the 2018 US tax filing in 2019 and consequently the coming quarterly estimated tax payments to be done in 2018 should be considered in order to avoid underpayment penalties.

CSG

Under the Social Security Financing Bill for 2018, the generalized social contribution (contribution sociale généralisée, CSG) will increase by 1.7 percentage points. The old rate of 15.5% will become 17.2%. As a consequence,

Cabinet BORNHAUSER - Avocats à la Cour

11, rue Portalis - 75008 Paris

Tél. 01 44 29 33 24

cabinetbornhauser@bornhauser-avocats.fr

Publié le 16 février 2018

the thresholds for deduction of the CSG from the income tax base will also be increased by 1.7 percentage points

Flat tax on investment income

Financial income (dividends, interest, capital gains) earned by individuals were subject to social levies at a cumulative rate of 15.5% plus income tax assessed at progressive rates (up to 45% but with certain abatements applicable to the taxable basis of dividends and to capital gains, depending, for the latter, on the length of time during which the taxpayer has owned the investments).

With the new Finance law, taxation of investment income (interests, dividends, capital gain) will be at taxpayer's discretion.

Indeed, it is now possible to choose between:

- current taxation through progressive tax scale + additional social taxes at 17.2%; In this case rebate on dividends, length of ownership for capital gains apply.
- flat tax at 30% (including income tax and CSG/CRDS) but without any rebate (such as the 40% rebate on dividend, or length of ownership rebate for capital gain).

The option is applicable for the whole investments received during the year, so only one regime of taxation applied per year.

New tax regime for free shares

Cabinet BORNHAUSER - Avocats à la Cour

11, rue Portalis - 75008 Paris

Tél. 01 44 29 33 24

cabinetbornhauser@bornhauser-avocats.fr

Publié le 16 février 2018

Acquisition gain from qualifying free shares plans adopted by a decision later than the publication of the 2018 financial law will be taxed as follows:

- Part of the gain under € 300,000: subject to income tax through progressive tax scale after a 50% rebate or, if applicable for managers, a fixed rebate of € 500,000 and, for the balance, the 50% rebate. The fixed rebate of € 500,000 is applied in priority to the capital gain resulting from the sale of the shares and the balance to the acquisition gain. In addition, social taxes at 17.2% are applicable
- Part of the gain above € 300,00: subject to income tax as salary and to social taxes as salary.

Replacement of the wealth tax by a real estate property tax

Until 2018, taxpayers with net assets above € 1.3 M was liable to a wealth tax through a progressive tax scale based on the value of their net assets.

Every item of assets was included, such as real-estate properties, balance on bank accounts, shares, vehicles, etc.

The new tax follows the same mechanism that the previous one but the tax is only assessed on real estate properties (and shares of real estate companies) assets above € 1.3 M. Others assets of the taxpayers are no longer subject to this tax.

The tax scale remains the same and is as follows:

Part of the taxable net assets	Rate applicable
Up to € 800,000	0 %

Cabinet BORNHAUSER - Avocats à la Cour

11, rue Portalis - 75008 Paris

Tél. 01 44 29 33 24

cabinetbornhauser@bornhauser-avocats.fr

Publié le 16 février 2018

Part of the taxable net assets	Rate applicable
From € 800,001 to € 1,300,000	0,5 %
From € 1,300,001 to € 2,570,000	0,7 %
From € 2,570,001 to € 5,000,000	1 %
From € 5,000,001 to € 10,000,000	1,25 %
Above € 10,000,000	1,5 %

Cette note d'information générale ne saurait s'assimiler ou se substituer à une consultation juridique. Elle ne saurait remplacer un entretien privé avec un avocat qui, après étude des circonstances de fait et de droit propres à chaque dossier individuel, sera en mesure d'apporter une solution précise et adaptée à chaque dossier compte tenu de ses spécificités.

Cabinet BORNHAUSER - Avocats à la Cour

11, rue Portalis - 75008 Paris

Tél. 01 44 29 33 24

cabinetbornhauser@bornhauser-avocats.fr