



TAX NEWSLETTER

March 2025

I. CORPORATE TAXATION

- **Tax Consolidation: *indirect subsidies may be neutralized even if the tracking tax return is not filed - Decision of the Administrative Court of Appeal (“CAA”) of Versailles on January 30th, 2025, No.22VE01502, SAS Ixcore***

The CAA judges that the failure to file the tax form 2058-SG, which tracks intra-group subsidies and debt waivers, along with the tax consolidation returns, does not, by itself, prevent their neutralization for fiscal years beginning before January 1st, 2019.

II. TAX AUDIT

- **Tax fraud: *a final criminal acquittal precludes the maintenance of tax reassessments based on the same facts - Decision of the Commercial chamber of the French Civil Supreme Court (“Cour de cassation”) on March 12th, 2025, No.23-12.253***

The Cour de cassation considers that, by virtue of the authority of *res judicata*, a tax reassessment based on facts that result in a final criminal acquittal cannot be maintained.

- **Tax recovery Notice (“AMR”): *if taxations are partially justified, full cancellation is not possible - Decision of the Commercial chamber of the Cour de cassation on March 12th, 2025, No.23-19.954***

The Cour de cassation states that the judge cannot fully cancel an AMR when the tax assessment is partially justified, but must uphold it for the justified amounts, even without explicit requests from the parties.

III. INTERNATIONAL TAXATION

- **International administrative assistance: *the judicial judge has jurisdiction in case of a litigation - Decision of the CAA of Douai on March 6th, 2025, No.24DA00631***

The CAA judges that when a tax claim has not yet been subject to recovery proceedings, disputes concerning the adoption of protective measures in another State under international administrative assistance fall within the jurisdiction of the judicial courts.

- **Tax residency: *Russian nationals are considered French tax residents under domestic law and the France-Russia tax treaty - Decision of the CAA of Versailles on March 6th, 2025, No.22VE02558***

The CAA rules that two Russian citizens who get married in France, have a child there, and enroll the child in a French school are considered tax residents of France, as they have in France both their home (and main place of residence under Section 4 B of the French Tax Code (“FTC”)) and the center of their vital interests (under Section 4 of the France-Russia Tax Treaty). In the case at hand, the taxpayers hold euro-denominated bank accounts in Russia and nine bank accounts in France. The implementation of international administrative assistance reveals that the vast majority of the transactions on these accounts relate to day-to-day living expenses in France, and that no personal income tax returns are filed in Russia.

- **Low tax jurisdiction: *the provision under Section 209 B of the FTC complies with the France-Mauritius tax treaty - Decision of the 9th and 10th chambers of the French Administrative Supreme Court (“CE”) on March 13th, 2025, No.488080, Sté Rubis***

The CE rules that the profits of a company established in Mauritius (a low tax jurisdiction) and wholly owned by a French company are taxable in France as movable assets, pursuant to Section 209 B of the FTC. Provisions of the France–Mauritius tax treaty do not preclude this taxation. Since the treaty does not expressly cover “movable assets” such income is taxable exclusively in the State of residency of the beneficiary, pursuant to Section 22 of the tax treaty.





- **France-Mauritius tax residency: a taxpayer's presence in Mauritius is not sufficient to shift the location of his household from France - Decision of the 8th chamber of the CE on March 17th, 2025, No.495994**

The CE rules that a taxpayer has his tax household in France, where he rents a real estate property to house his ex-wife and their daughter and where he incurs substantial day-to-day expenses - even though he primarily resides in Mauritius. In Mauritius, he notably owns his main company, holds a fixed residence, possesses a consular card, is registered with the "Caisse des Français de l'Étranger", and does not own any real estate.

- **Trust: the application of the flat-rate income does not preclude the right to demonstrate the actual income - Decision of the CAA of Paris on March 19th, 2025, No.23PA05405**

The CAA rules that, under the second paragraph of the point 3 of Section 123 bis of the FTC, the French Tax Authorities ("FTA") may determine the tax base of taxpayers by applying to the trust's assets the flat-rate provided for in Section 39,1,3° of the FTC. However, taxpayers have the right to demonstrate that the actual income received by the trust is lower than the flat-rate amount. In the present case, the CAA finds that the evidence submitted does not establish that the income received by the trust is lower than the amount assessed by the FTA.

- **Main residence fraud: the control is strengthened - Ministerial reply No.1901, Journal Officiel de l'Assemblée Nationale on March 25th, 2025**

The FTA may audit the true primary nature of a main residence by relying on a set of indicators designed to determine the center of the taxpayer's family, economic, and professional interests. Rentals such as those on Airbnb may be used as a criterion for evaluation.

IV. INDIVIDUAL TAXATION

- **Sale of the main residence: capital gains are exempt even when the property is held through a look-through entity ("SCI") - Judgment of the Administrative Tribunal ("TA") of Toulouse on February 25th, 2025, No.2300034**

The TA rules that the capital gains from the sale of a property held by an SCI and made available free of charge to its partner, who uses it as his main residence, are exempt under Section 150 U of the FTC, just as if the property were owned directly by the individual.

- **Bank accounts opened abroad: the declaration obligation is strictly enforced - Decision of the CAA of Nancy on February 27th, 2025, No.22NC02012**

The CAA rules that a bank account opened abroad, which has recorded only one transaction during the year, is considered used and must therefore be declared in accordance with Section 1649 A of the FTC.

- **SCI: the shareholder is not required to demonstrate that the other shareholders cannot meet the payment of the debts - Decision of the 9th and 10th chambers of the CE on March 12th, 2025, No.474824**

The CE rules that the liability of the shareholders of an SCI for the debts of the SCI, as provided for in Section 1857 of the Civil Code, applies only to debts owed to third parties and not to other shareholders. Therefore, in order to establish the doubtful nature of a claim held against an SCI, the partner is not required to prove that the other shareholders are unable to meet the payment of this corporate debt.

- **Inheritance liabilities: the FTA may dismiss a debt reported by the notary if he did not personally check it - Decision of the French Civil Supreme Court on March 12th, 2025, No.23-21.706**

The French Civil Supreme Court rules that a debt not personally verified by the notary in the course of his duties, but merely reported based on the parties' statements, may be dismissed by the FTA.

- **Exemption from inheritance tax and gift tax ("DMTG"): cohabitation with collateral relative before his death is insufficient - Decision of the Cour de cassation on March 12th, 2025, No.22-20.873**

The Cour de cassation rules that, in order to benefit from the exemption under Section 796-0 ter of the FTC, the surviving collateral relative must have shared the same household with the deceased for the 5 years preceding the death, and this cohabitation must be supported by an official document.