



Global Reward Update

France - Non-resident taxation: a step back to the status quo?

Key points to know

- Under the 2019 Finance Act, the taxation of non-tax residents of France was due to be reformed. The reform, initially scheduled to come into effect on 1 January 2020, was aimed at aligning the taxation of non-tax residents with that of French tax residents.
- An amendment to the Finance Bill for 2021, adopted by the National Assembly on 13 October 2020, reintroduces the existing 0%, 12% and 20% withholding tax bands for non-tax residents, and thus proposes to maintain the status quo for non-residents.
- Before coming into force, this amendment needs to be approved through a final vote on the Finance Bill, which usually takes place at the end of December.

Background

The Finance Act for 2019 was aimed at aligning the taxation of tax residents and non-tax residents of France. This was to be achieved by levying taxes on non-residents' French source salaries, pensions, annuities and non-qualified equity incentives through the employer withholding tax regime that currently applies only to French tax residents (i.e. "Prélèvement à la source" also known as "PAS/PASRAU").

This reform was postponed by the Finance Act for 2020. The Finance Act for 2021 has, effectively, reverted back to the original position. It provides that the current non-resident withholding tax regime will apply to income derived between 2020 and 2022. The abolition of the current withholding tax regime was initially scheduled to come into effect from 1 January 2021. However, it is now expected that French source income earned by non-tax residents will only be subject to the ordinary income tax withholding regime ("PAS/PASRAU") that applies to French residents from 1 January 2023.

Finance Bill for 2021

The Finance Bill for 2021 is currently going through the legislative process.

The amendment to the Finance Bill proposes to maintain the *status quo* for non-residents:

- The standard withholding tax bands of 0%, 12% and 20% would remain applicable to compensation income. The personal individual PAS/PASRAU tax rate, determined by the French Tax Administration, would therefore not apply;
- For French qualified share plans, the standard withholding tax bands of 0%, 12% and 20% would remain applicable for non-residents. Therefore, the neutral PAS/PASRAU tax rate (i.e. 20 tax brackets for 2020) that had been expected to apply to the taxable acquisition gain of qualified awards/options in the same way as for French residents will not now do so;
- The mechanism for employer reporting remains a current year tax filing outside of payroll;
- The average minimum annual tax rate, increased to 30% last year, will remain and will not revert back to the previous rate of 20%.

Before coming into force, these measures will need to be approved during the final vote on the Finance Bill. It is expected that the Finance Bill will come into effect progressively through to 1 January 2023.

Deloitte's view

We welcome this amendment as it continues the existing tax positions for non-tax residents by reintroducing a well-established tax regime, known to both companies and individuals.

Should the reform come into effect, it could significantly affect a large number of non-resident taxpayers, in particular those with French source income such as that from share plans. The new regime would increase the level of taxation and complexity for non-resident taxpayers of France. In addition, it would reinforce the withholding and reporting obligations for the employer, contrary to the objective of simplification pursued by the reform.

We expect that this amendment will be appreciated by individuals and employers that would have been impacted. We will follow the upcoming debates on this amendment and provide a further update in due course.

Who to contact

If you would like to discuss this further, or have any questions, please speak to your usual Deloitte contact or any of the contacts listed below:

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