France

Pierre-Henri Revault
Partner
Tel: +1 212 436 3430
prevault@deloitte.com

Alain Baudeneau
Director
Tel: +1 212 436 6724
abaudeneau@deloitte.com

Investment basics

Currency
Euro (EUR)

Foreign exchange control
No

Accounting principles/financial statements
French GAAP. Financial statements must be filed annually.

Principal business entities
These are the joint stock company (SA/SAS), limited liability company (SARL), commercial partnership (SNC) and branch of a foreign company.

Corporate taxation

Residence

A company incorporated in France is deemed to be tax resident. A foreign company can be resident in France if it is managed and controlled in France.

Basis

France operates a territorial tax system. Residents and nonresidents are taxable in France on profits allocable to a French business and on French-source income. Foreign-source income of French residents generally is not subject to French tax (and foreign-source losses may not be deducted).

Taxable income

Taxable income is equal to book income, plus or minus certain tax adjustments.

Taxation of dividends

Dividends generally are included in taxable income, although distributions from qualifying subsidiaries benefit from the participation exemption (see "Participation exemption" below).

Capital gains

Capital gains generally are subject to corporate tax at the standard rate, but capital gains derived from the sale of qualifying shareholdings can benefit from the participation exemption (see "Participation exemption" below).

Losses

Ordinary losses may be carried forward indefinitely, but may be offset against taxable profit of a given year only up to an amount equal to EUR 1 million, plus 50% of the taxable result in excess of this amount for the fiscal year. Losses may be carried back one year, in certain cases up to EUR 1 million. Additional limitations apply to the deduction of capital losses on the sale of shares between related parties.

Rate

The standard corporate income tax rate is 33⅓%. Small or new businesses may benefit from lower rates.

Surtax

A 3.3% social surcharge applies to standard corporate income tax liability exceeding EUR 763,000. The surcharge is levied on that part of the standard corporate income tax liability that exceeds EUR 763,000. Small and medium-sized enterprises benefit from specific exemptions provided certain conditions (e.g. turnover, capital) are satisfied.

A 10.7% temporary surtax applies to the standard corporate income tax liability for large companies with turnover exceeding EUR 250 million, for financial years ending on or before 30 December 2016. This results in an overall effective corporate tax rate of 36.9%, or 38% for the largest companies, when also subject to the 3.3% social surcharge. For fiscal years closing on or after 31 December 2016, the effective overall rate will fall to 34.43%.

Alternative minimum tax

No

Foreign tax credit

French domestic law generally does not provide for a credit for foreign taxes. Income subject to foreign tax that is not exempt from French tax under the territoriality principle is taxable net of foreign tax paid. However, most tax treaties provide for a tax credit mechanism, which generally corresponds to the withholding tax paid in the source country, but capped at the French tax actually due on the net income. The portion of the credit exceeding the cap is forfeited.

Participation exemption

A participation exemption on dividends applies where the recipient owns at least 5% of the shares of the distributing entity for at least 24 months. If the participation exemption applies, the dividends are 95% tax exempt, resulting in a maximum effective rate of 1.9% (5% x 38%). However, if an entity is merged shortly after making a distribution and the merger is within two years of its acquisition, the parent company must choose between having the distribution within the scope of the participation exemption and taking a deduction for the loss on the shares of the distributing entity. (See also below under "Other" under "Anti-avoidance rules").

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A participation exemption also applies to capital gains arising from the sales of shares that form part of a substantial investment if the shares have been held for 24 months. The gain is 88% exempt, resulting in a maximum effective rate of 4.56% (12% x 38%).

Holding company regime

See "Participation exemption."

Incentives

France offers an R&D tax credit and a tax credit for competitiveness and employment, which take the form of an actual cash payment from the government if the credits have not been used to offset an income tax liability within three years.

Withholding tax

Dividends

Dividends paid by a French corporation to a nonresident shareholder are subject to a 30% withholding tax, unless a tax treaty provides for a lower rate or the EU parent-subsidiary directive applies. Under the directive, dividends paid by a French corporation to a qualifying EU parent company are exempt from withholding tax (see "Controlled foreign companies", below, for rules on noncooperative countries).

A 3% surtax is levied on dividend distributions and deemed dividends paid by French entities subject to corporate income tax.

Interest

Interest paid by a French company to a nonresident lender generally is not subject to withholding tax (see "Controlled foreign companies" below, for rules on noncooperative countries).

Royalties

Royalties paid to a nonresident entity are subject to a 33⅓% withholding tax. The rate may be reduced or eliminated under a tax treaty or where the royalties qualify for the benefit of the EU interest and royalties directive (see "Controlled foreign companies", below, for rules on noncooperative countries).

Technical service fees

Fees paid for commissions, consultancy and services performed or used in France are subject to a 33⅓% withholding tax. The rate may be reduced or eliminated under a tax treaty (see "Controlled foreign companies", below, for rules on noncooperative countries).

Branch remittance tax

The after-tax income of a French branch of a foreign company is deemed to be distributed to nonresidents and is subject to a 30% branch tax. The tax may be eliminated or reduced under a tax treaty, and is not due if the foreign head office is located in the EU/EEA and is subject to income tax with no possibility of opting out or of being exempt; and the income is taxable in the foreign country.

Other taxes on corporations

Capital duty

A fixed EUR 375 duty applies to most transactions that impact a company's share capital. The duty is EUR 500 for companies with capital in excess of EUR 225,000, which is the minimum registered capital for a public company. Capital reductions are taxed at a flat rate of EUR 125. Upon dissolution, a company pays a *"droit de partage"* equal to 2.5% of net worth, if the net worth is distributed pro rata to the shareholders. Amounts paid to a shareholder exceeding its pro rata rights in the distribution are taxed as a sale. (For share transfers, see "Transfer tax.")

Payroll tax

Payroll tax is levied on entities that collect revenue not subject to VAT (mostly banks and financial institutions).

Real property tax

Several real property taxes apply in France, including the "CET" (see "Other" below), the *"taxe fonciere"* and the "3% tax." (See also "Transfer tax" below.)

Social security

Contributions payable by the employer vary depending on the size and type of business and the location, but in certain cases can exceed 50% of gross pay for the employer.

Stamp duty

Stamp duties apply, but they are nominal.

Transfer tax

The sale of real property is subject to a transfer tax at a maximum rate of 5.8%.

The sale of shares of an SARL or SNC is subject to a transfer tax equal to 3% of the sale price, minus a sum equal to the number of units sold x EUR 23,000/total number of the company units. A flat rate of 0.1% applies for the sale of shares of an SA, SAS or SCA. The rate is increased to 5% if the company whose shares are transferred is a real estate company, i.e. more than 50% of the fair market value of the company's assets correspond to French real property or real property rights.

The sale of a French going concern, a French customer list or leasehold rights is subject to a 5% transfer tax. The same tax applies to the sale of IP rights (other than patents) that are related to a French going concern and used in France.

Other

Resident and nonresident companies operating a French business must pay the CET (*"contribution economique territoriale"*). The CET has two components: a real property tax and a tax calculated on adjusted gross receipts of the French business.

A number of minor taxes apply to corporations in France to fund specific social purposes.

A systemic risk tax at 0.329% applies on risks assumed by banks. The tax base is the applicable minimum required regulatory capital. The tax is being progressively phased out, as the EU Single Resolution Fund is being introduced. The systemic risk tax is scheduled to be phased out completely by 1 January 2019.

A financial transaction tax of 0.2% applies to transactions involving shares of publicly traded companies established in France, the capital of which exceeds EUR 1 billion. The tax is calculated based on the value of the shares.

Anti-avoidance rules

Transfer pricing

French entities controlled by entities established outside France are taxable in France on profits transferred, directly or indirectly, to an entity located abroad through an increase or decrease in the purchase or sales prices or by any other means. Companies exceeding certain thresholds must maintain contemporaneous transfer pricing documentation.

Rates on interest paid by French corporate taxpayers to related parties are deemed to be arm's length if they do not exceed an index corresponding to the average annual floating rate applied by banks to two-year loans granted to businesses. If the interest rate exceeds that index, the taxpayer will have to demonstrate that it would have paid a similar or higher rate to a bank in a comparable situation.

Thin capitalization

The deduction of interest expense on related party debt is deferred if the interest exceeds the highest of the following thresholds: (1) the interest expense on a debt equal to 1.5 times the equity; (2) 25% of the borrower's adjusted EBITDA; and (3) the amount of interest income received from related parties. An additional deduction may be available when the borrower is part of a consolidated tax group.

Nondeductible interest may be carried forward, but as from the second fiscal year following the disallowance, 5% of the total amount carried over becomes permanently disallowed each year.

The scope of the thin capitalization rules has been extended in certain circumstances to loans granted by a third-party entity, but guaranteed by a related company.

Acquisition-related expenses are fully deductible only where the shareholding is actually managed from France. The burden of proof is on the taxpayer to demonstrate that decisions on share-related transactions are made in France and control of the subsidiary's management is effectively undertaken from France. Failing that, a portion of the interest expenses relating to the acquisition will be disallowed each year in an amount corresponding to the ratio between the acquisition price and the average of the company's indebtedness for the fiscal year concerned. This will apply until the end of the eighth fiscal year following the acquisition. The interest disallowance does not apply where: (1) the value of the shares held by a company does not exceed EUR 1 million; (2) the French company demonstrates that the indebtedness ratio of the group exceeds, or at least equals, its own; or (3) the French company demonstrates that the loan was aimed at financing assets other than the shares.

Finance charges are capped at 75% of their net amount. However, the cap does not apply if the total finance charges incurred, including charges disallowed under the thin capitalization rules, are below EUR 3 million.

Controlled foreign companies

The CFC rules apply to more-than-50%-owned or controlled foreign subsidiaries or permanent establishments of a French company when the local taxation is less than 50% of the French rate (i.e. the actual tax paid compared to French tax that would be due on the income calculated under French GAAP). In such a case, the French company is (i) taxed on its pro rata share of the income deemed to be received from the CFC if the CFC is a permanent establishment or a branch; or (ii) is deemed to have received distributed income from the CFC if the latter is a subsidiary. EU companies are outside

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the scope of the CFC rules, unless the structure was put in place to avoid tax.

Dividends, interest, royalties and payments for services made to companies located in a noncooperative country may be subject to a 75% withholding tax. Further, dividends received from entities located in noncooperative countries cannot benefit from the participation exemption.

Disclosure requirements

No

Other

A rule to prevent hybrid mismatches disallows an interest deduction on a loan granted by an affiliated company if the interest is not subject to a tax at the level of the lending company that is equal to at least 25% of the tax that would have been due under the normal French rules.

In line with amendments to the EU parent-subsidiary directive, the French Tax Code excludes from the French participation exemption regime distributed profits that are deductible from the distributing subsidiary's taxable income.

The French tax authorities have the general power to disregard or recharacterize all transactions, arrangements or legal acts that are fictitious or have been executed or entered into for the sole purpose of avoiding French tax.

Compliance for corporations

Tax year

The tax year generally is the calendar year, although a taxpayer may choose a different year-end date. The tax year is 12 months but can be shorter or longer in certain cases.

Consolidated returns

Under the fiscal integration regime, a group of companies may opt to consolidate profits and losses so that tax is assessed at the level of the parent company but is based on the group profit or loss. To qualify for consolidation, the parent must, inter alia, be subject to French tax and cannot be 95% or more owned directly by French corporate taxpayers. Only subsidiaries that are at least 95% owned, directly or indirectly by the parent can be included in the tax group (if subject to French corporate tax). Subsidiaries indirectly held through a chain of participations that include French companies not part of the tax group or non-EU resident companies cannot be part of the group. However, groups can be consolidated vertically (the traditional interpretation) or horizontally, as recent EU case law prompted a modification to French legislation, which now permits French sister companies with a common EU parent company to form a horizontally consolidated group.

Filing requirements

A self-assessment regime applies. Corporate tax returns normally are due by 30 April of the year following the calendar year, or within three months of the year end for a noncalendar financial year.

Penalties

Late payments and late filing are subject to a 10% penalty. If additional tax is payable as a result of a reassessment of tax, interest is charged at 0.4% per month (4.8% per year). Special penalties can apply in the event of bad faith or abuse of law.

Rulings

Rulings are becoming a regular practice. A special ruling procedure exists to confirm whether a foreign entity has a permanent establishment in France.

Personal taxation

Basis

Residents are taxed on worldwide income, whereas nonresidents are taxed only on French-source income.

Residence

Individuals domiciled in France are considered resident. An individual normally is considered domiciled in France if his/her principal residence, main place of business or professional activity or center of financial interests is located in France.

Filing status

Married persons file a joint tax return, with no option to file separately after the year of marriage or before the year of divorce.

Taxable income

Taxable income generally includes employment income, business income, real estate income, investment income and capital gains.

Capital gains

Capital gains from the disposal of movable assets (e.g. securities, bonds) are taxed as ordinary income (see below) at progressive rates ranging from 0% to 45%. In addition, special social security surcharges apply for French residents, amounting to approximately 15.5%. Capital gains from the disposal of immovable property are taxed at a special flat rate of 19%, plus special social security surcharges.

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Deductions and allowances

Various deductions and allowances are available, based primarily on family circumstances and related to certain types of investment or expense incurred during the year.

Rates

Rates on ordinary income are progressive, ranging from 0% to 45%, plus special social security surcharges for French residents of a maximum of 15.5%.

An exceptional contribution applies on the part of income that exceeds EUR 250,000 for single individuals and EUR 500,000 for married couples. The rate of the contribution is 3% on income between EUR 250,000 and EUR 500,000 for single individuals (EUR 500,000 and EUR 1 million for married couples) and 4% on the part of income exceeding EUR 500,000 for single individuals (EUR 1 million for married couples). The measure will remain in effect until the government achieves a zero deficit.

Other taxes on individuals

Capital duty

No

Stamp duty

Stamp duties apply, but they are nominal.

Capital acquisitions tax

No

Real property tax

Owners are liable for a tax based on the "rental value" of the property assessed by the tax authorities. Occupants are liable for a dwelling tax based on the rental value of the property assessed by the tax authorities.

Inheritance/estate tax

Transfers between close relatives are subject to tax at rates ranging from 5% to 45%, after a rebate (e.g. up to EUR 100,000 per child).

Net wealth/net worth tax

Households pay wealth tax if the net worth exceeds EUR 1.3 million (per household, rather than per individual). Some types of asset are exempt, and small deductions for dependents are allowed. Nonresidents must pay tax on their property in France, unless they are exempt under a tax treaty. Rates are progressive, ranging from 0.5% to 1.5%.

Social security

Social security contributions and surcharges are deducted at source from salary payments, with contributions of approximately 20% for the employee.

Compliance for individuals

Tax year

Calendar year

Filing and payment

The income tax return generally must be filed by 31 May after the end of the tax year.

Penalties

Late payments and late filing are subject to a 10% penalty. If additional tax is payable as a result of a reassessment of tax, interest is charged at 0.4% per month (4.8% per year). Special penalties can apply in the case of bad faith or abuse of law.

Value added tax

Taxable transactions

VAT is levied on the sale of goods and the provision of services, and on import.

Rates

The standard VAT rate is 20%. Reduced rates of 5.5% or 10% apply to most food products for human consumption and other items, and a preferential rate of 2.1% is payable on some periodicals and medicines reimbursed by the social security system. Certain transactions are zero-rated or exempt.

Registration

Entities subject to VAT must register with the tax authorities.

Filing and payment

Filing can be monthly, quarterly or annually, depending on the type of activities and other factors. Companies belonging to the same group may elect to consolidate payment of VAT (but not VAT returns) in certain cases, but VAT grouping is not possible.

Source of tax law: *Code General des Impots* (CGI) (French Tax Code), and *Livre de procedures fiscales* (LPF) (French Tax Procedure Code)

Tax treaties: France has signed tax treaties with 123 jurisdictions

Tax authorities: French Tax Administration