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GMS Flash Alert

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France - Finance Law Measures on Withholding, Impatriate Regime, Tax Tables

Several tax developments introduced by the recent French Finance Law will have a significant impact on individuals on international assignment and their employers. Among the key measures we discuss in this newsletter are the new withholding tax system that takes effect in January 2018, enhancements to the so-called "impatriate regime," and changes to the income tax thresholds and credits.

WHY THIS MATTERS

- The new withholding tax system may bring practical difficulties for both employers and individual taxpayers. Shifting to a withholding-based income tax system will give rise to changes in behaviour and the institution of new processes and systems for the French tax administration as well as for employers, employees, and professional tax service providers.

  Employers should begin assessing what impact the new rules will have on their payroll operations, international assignment tax programs, and tax equalization policies. Individual taxpayers and professional tax service providers should be familiarizing themselves with the new rules and should be prepared to have in place procedures to help them fulfil their compliance and service obligations as from 1 January 2018.

- Changes to the income thresholds for the 2017 tax tables could affect international assignment cost projections and in some cases, depending on the individual's income level, could put an individual in a new tax bracket subject to a different rate of tax – this could impact the tax treatment of income (hypothetical tax and actual tax).

- With the changes to the impatriate tax regime, assignees working in France will be able to enjoy for an even longer period an exemption from income tax on the additional compensation paid to them upon moving to France as well as on a fraction of the remuneration linked to overseas work-days. This change aims to make France an even more attractive destination for foreign employees and businesses.

New Withholding Tax System to Start 1 January 2018

With the enactment of the French Finance Law[1], the withholding tax system announced in GMS *Flash Alert* 2016-120 is now law and will be implemented with effect from 1 January 2018.

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

For income not subject to the withholding tax, such as non-French source employment income 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.

Transition During 2017

Special transition rules apply to 2017 income. In practice, an income tax return will have to be filed in May 2018 in respect of the 2017 income. However, taxpayers will benefit from a special tax credit called CIMR (*impôt exceptionnel de modernisation du recouvrement*, which can be loosely translated as "tax credit for modernization of income tax collection"). This tax credit will cancel, at least in part, the French income tax due on non-exceptional employment income. An extensive list of what would be deemed "exceptional income" is included in the law. Anti-abuse measures would also be put into place in order to avoid an artificial shift of income from 2016 or 2018 to 2017. Types of exceptional employment income are – though not limited to – termination or severance payments, lump-sum payments, and deferred compensation.

FIDAL NOTE

Employers are encouraged to seek professional advice on how the rules will apply to the specific circumstances of their assignees in France, and communicate how the changes will impact those employees.

Having said that, it is important to point out that tax professionals with Fidal are aware that the implementation of the withholding tax system is still uncertain, even if the measure has been voted on and approved, due to the 2017 presidential election in France. Several candidates for the president are publicly opposed to the measure and have stated that they would repeal this system (if enacted) should they be elected.

Enhancements to Impatriate Regime

France has a preferential tax regime for inbound assignees called the "impatriate regime"[2] (see GMS *Flash Alert* 2015-013 (29 January 2015) for details).

To make France an even more attractive investment, commercial, and international assignment destination, the period during which “impatriates” benefit from this favourable regime has been extended to 31 December of the eighth year following the moment they take up their positions in France (instead of the fifth year, as is currently the case).

The impatriate regime provides an exemption from income tax on the assignment-related compensation paid to executives moving to France as well as on a fraction of the remuneration linked to overseas work-days.

In addition, such tax-exempt compensation will not be subject to *Taxe sur les Salaires* (the payroll tax that applies to remuneration paid by certain entities not fully subject to Value Added Tax, such as banks and insurance companies).

The changes apply to all assignments from 6 August 2016.

Personal Income Tax: Rates and Thresholds, Credits, Reductions, Reliefs, Contribution on High Income

The Finance Law also increased the taxable income thresholds to keep in line with inflation.

The 2017 tax brackets and rates (applicable to 2016 income) are:

Net taxable income (for a single taxpayer (or in French tax terms, per “single unit”))	Rate
Up to €9,710	0%
Over €9,710 to €26,818	14%
Over €26,818 to €71,898	30%
Over €71,898 to €152,260	41%
Over €152,260	45%

- One small further change is that in addition to the *décote* (the income tax credit available if tax liability is below a certain level), a further tax reduction will apply where the reference income is below €20,500 (single taxpayer, or in French tax terms, “single part”) or €41,000 (couples filing jointly), the tax due is reduced by 20 percent. (For prior coverage of changes to the *décote*, see GMS *Flash Alert* 2015-015 (30 January 2015).)

- The income threshold is increased by €3,700 for each half (½) unit and €1,850 for each subsequent quarter (¼) unit.

- The 20-percent relief is tapered for income levels over €18,500 per unit (single taxpayer) or €37,000 (couples filing jointly).

- The contribution on high income (3 percent or 4 percent) remains unchanged.

FOOTNOTES:

1 See *Loi n° 2016-1917 du 29 décembre 2016 de finances pour 2017* (the Finance Act, 2016) (in French) at: https://www.legifrance.gouv.fr/eli/loi/2016/12/29/ECFX1623958L/jo/texte .

2 Sometimes called the "inpatriate regime."

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