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GMS Flash Alert

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France - What's New in Budget and Social Security Finance Laws for 2019

The French finance bill for 2019[1] and social security finance bill[2] were enacted on December 28, 2018 and December 22, 2018 respectively. Both pieces of legislation contain measures affecting employers and their globally mobile employees, including changes to the "impatriate regime," new rules for nonresidents, and tighter rules around the Exit Tax regime.

We describe below some of the key measures affecting individuals and their employers.

WHY THIS MATTERS

Some of these developments could have a considerable impact on the cost of assignments, particularly the changes to the impatriate regime and the taxation of tax nonresidents working in France.

Changes to Impatriate Regime

Qualifying assignees, subject to conditions, can be provisionally exempt from income tax on the compensation supplements directly related to the exercise of their professional activity in France (the so-called "impatriation premium"). For individuals directly recruited abroad, it was possible to opt for a flat-rate exemption corresponding to 30 percent of the total net remuneration. This option has now been opened up so as to apply to all individuals moving to France (including cases of intra-group mobility).

The new rules are applicable to remuneration paid as of January 1, 2019, to individuals who started work in France from November 16, 2018.

FIDAL NOTE

Employers will need to review their policies in light of these developments.

New Rules for Nonresidents

From January 1, 2019, the tax due by nonresident taxpayers, when calculated at normal progressive rates, cannot be less than 30 percent (20 percent in the French overseas departments known as "DOM"). The minimum rate was previously 20 percent (14.4 percent in the DOM). The minimum rate of 20 percent will continue to apply on income up to the upper limit of the second bracket of the income tax schedule (€27,519), and 30 percent beyond that limit. The change will apply to income received in 2018. Nonresidents are taxable on their French-sourced income and the rates above apply to their French-sourced income. However, taxpayers can make a claim to apply the effective rate of tax calculated based on their worldwide income, if it is lower than the minimum rate of 30 percent.

KPMG NOTE

The changes do not impact the nonresident tax already withheld by the employer (tranches of 0 percent, 12 percent, and 20 percent), only the amount of tax that is calculated at normal progressive rates further to the submission of the tax return. It is expected that a number of taxpayers that would not normally have had a liability will have additional tax to pay as a result.

Changes in Withholding Rates for Nonresidents

There is no change in 2019 in the current system of withholding rates, which are based on three tranches (0 percent, 12 percent, and 20 percent). However, from January 1, 2020, the withholding tax for nonresidents will be calculated based on the so-called "neutral rates," which have been implemented for withholding tax purposes for residents as from January 1, 2019 (progressive rate schedule with a marginal rate of 43 percent).

FIDAL NOTE

The above measure is a clear indication that the French tax authorities are aiming to bring the system of taxation for nonresidents in line with that for resident taxpayers. However, it could have a major impact in terms of cash flow as the neutral rate does not take into account family circumstances.

Deductions for Alimony, Gain on Sale of Former Principal Residence

The Law now allows nonresidents to deduct alimony payments provided that such payments are taxable in the hands of a French tax resident.

From January 1, 2019, the gain on the sale of a taxpayer's former principal residence in France will be exempt if the property is sold prior to December 31 of the year following the transfer of tax residence provided the property is not let or otherwise occupied in the intervening period.

New Rules for "Exit Tax" Regime

The Exit Tax rules aim to tax unrealized capital gains on shares and certain financial instruments when taxpayers leave France and they sell before the end of a certain period. This period has now been reduced to two years or five years where the securities amount to more than €2.57 million at the time of departure from France, whereas it was 15 years previously.

Two categories of securities are concerned by the Exit Tax:

- Securities that are worth more than €800,000 at the time of departure;
- Shares that give rise to at least 50 percent of the beneficial ownership of a company. (For this second category, the value of the shareholding may be less than €800,000.)

In addition, impacted taxpayers will no longer be required to provide the French tax authorities with financial guarantees if they leave France for another European Union (EU) country or another country or territory with which France has concluded a tax treaty that includes an administrative assistance clause regarding the recovery of taxes.

These changes apply to individuals transferring their fiscal residence outside France as from January 1, 2019. The previous rules still apply to individuals who left France before that date.

Tax Rates

The tranches of the income tax scale applying to 2018 income are increased by 1.6 percent compared to the 2017 year.

Tranche of income per part (€)	Tax rate
Up to 9,964	0%
From 9,964 to 27,519	14%
From 27,519 to 73,779	30%
From 73,779 to 156,244	41%
Above 156,244	45%

FIDAL NOTE

Due to the introduction of a Pay-As-You-Earn system for individuals as of January 1, 2019, the income tax due on non-exceptional income received in 2018 will be canceled by a tax credit called "CIMR". It is essential that employers are prepared for this and have sought guidance on their compensation plans.

CSG and CRDS Exemptions

The social security finance law for 2019 provides that persons who are covered by the social security system of another EU state, the European Economic Area (EEA), or Switzerland are now exempt from the *contribution social généralisée* (CSG) and the *contribution pour la remboursement de la dette sociale* (CRDS) on their income from investment and capital gains. A solidarity levy at a rate of 7.5 percent would remain due.

FIDAL NOTE

At long last, France has brought its legislation in line with EU regulation 883/2004: contributions that are within the scope of the regulation are due in only one country even if they are not levied on employment or replacement income.

Individuals covered by another country's social security system under a bilateral agreement are liable for social levies at a global rate of 17.2 percent.

FOOTNOTES:

1 For the *Loi n° 2018-1317 du 28 décembre 2018 de finances pour 2019* on the LegiFrance Web site (in French), click here.

2 For the *Loi n° 2018-1203 du 22 décembre 2018 de financement de la sécurité sociale pour 2019* on the LegiFrance Web site (in French), click here.

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