GMS Flash Alert

2024-014 | January 17, 2024

France - Updates on Treaties with Greece, Denmark, Mali and Niger

A new law in France authorises the ratification of the tax conventions between France and Denmark, and between France and Greece, for the elimination of income taxes and the prevention of evasion and fraud tax. The law was published in the Official Journal (*Journal Officiel*) on 23 December 2023.[1]

On the other hand, both Mali and Niger (following on the footsteps of Burkina Faso) have announced that they were terminating their respective tax treaty with France.

WHY THIS MATTERS

It was unusual for two countries as politically intertwined by virtue of their membership in the European Union and their long-standing economic and commercial ties to be without a treaty. The new treaties with Denmark and Greece will facilitate cross-border commerce and investments, including the movement of cross-border employees between the countries party to the treaties, by reducing or eliminating double taxation on the same income.

With respect to the termination by Mali and Niger of their tax conventions with France, treaty benefits enjoyed by individual taxpayers would no longer be available when each convention is terminated. As a result, benefits of lower, preferential tax rates on certain income (e.g., interest, dividends), exclusion for certain employment income, as well as relief from double taxation would expire with the termination. This could give rise to double taxation without relief for individual taxpayers and higher international assignment costs for mobility programmes as concerns mobile employees between France and Niger and between France and Mali.

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Tax Treaty with Denmark

France and Denmark had been linked for more than fifty years by the tax treaty of 8 February 1957. In June 2008, the Danish authorities, considering that its provisions were unbalanced because they granted France an exclusive right to tax pensions received by Danish retirees living in France, took the unilateral decision to terminate the treaty, which ceased to apply from 1 January 2009. Since that date, the applicable tax rules have been those resulting from the internal laws of each country – particularly with regards to relief from double taxation.

The new treaty was signed on 4 February 2022, and had already received approval by the Danish Parliament on 28 March 2023. It is considered in force from 29 December 2023.

The provisions of the agreement will apply, with regard to income taxes collected by way of a withholding tax, to amounts taxable from 1 January 2024, and with regard to income taxes which are not collected by way of a withholding tax, to income relating to any calendar year beginning after the calendar year during which the treaty entered into force, i.e., 2024.

In terms of assignees, the following provisions are notable:

- With regard to France, taxes include the generalised social contribution (CSG) and the contribution for the repayment of social debt (CRDS) (these contributions were not covered by the old convention), as well as all types of withholding taxes and advances deducted from these taxes.

- The status of "resident" is subject to a condition of tax liability. Persons who are subject to tax in the state of their residence solely on income from sources located in that state would not have the status of resident.

- Remuneration from salaried employment is taxable in the state in which the professional activity is carried out (except in the case of short-term assignments).

- Directors' fees are taxable in the state of residence of the company of which the person is a member of the board of directors or supervisory board.

- Pension income is taxable in the source state in most situations.

Tax Treaty with Greece

The new Franco-Greek convention, which will replace the current tax convention signed in 1963, is based on the latest OECD standards. It includes the standard articles that pertain to individuals and addresses the taxation of dividends, interest, royalties, capital gains, income from employment or self-employment, directors' fees, students and trainees, and pension contributions and distributions.

Mali and Niger

In a joint statement dated 5 December 2023, Mali and Niger announced that they were unilaterally terminating their double taxation agreements with France and that the agreements will expire "within three months."[2]

France has been linked with Mali and Niger respectively since 1972 and 1965 by conventions tending to avoid ("eliminate" in the case of Niger) double taxation and to establish rules of reciprocal assistance in tax matters. The authorities of Burkina Faso had already unilaterally denounced the tax treaty with France a few months ago.[3] The practical implications for expatriates are not immediately clear and commentaries from the French tax administration are expected.[4]

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KPMG INSIGHTS

Tax treaties facilitate cross-border trade as well as the movements of cross-border employees by allocating taxing rights and mitigating double taxation. Their objective is also to fight against fraud and tax evasion by limiting the possibilities of double exemption. The existence or absence of a treaty has a direct consequence on the costs of a move to another country.

For employers with cross-border employees in any of the aforementioned countries that may have questions and concerns about the impact of the new treaties with Denmark and Greece and the termination by Mali, Niger, and Burkina Faso of their treaties with France, they should contact their usual tax and global mobility advisers or a member of the Global Mobility Services team with KPMG in France (see the Contacts section).

FOOTNOTES:

1 To access *Loi n° 2023-1232 du 22 décembre 2023 autorisant l'approbation de la convention entre le Gouvernement de la République française et le Gouvernement du Royaume du Danemark pour l'élimination de la double imposition en matière d'impôts sur le revenu et la prévention de l'évasion et de la fraude fiscales et la ratification de la convention entre la République française et la République hellénique pour l'élimination de la double imposition en matière d'impôts sur le revenu et pour la prévention de l'évasion et de la fraude fiscales*, click here.

2 See the post (in French on X (formerly Twitter)) regarding *Communiqué Conjoint N° 001* on the site of the Mali Foreign Affairs Ministry (*Ministère des Affaires Étrangères du Mali*) at: https://twitter.com/MaliMaeci/status/1732054058410574236 . *Please note that by clicking on this link you are leaving the KPMG website for an external site (non-governmental, non-KPMG), that KPMG is not affiliated with nor does KPMG endorse its content. Use of the external site and its content may be subject to the terms of use and/or privacy policies of its owner or operator.*

3 "Rétablissement de la double imposition par le Mali et le Niger," *Question écrite n°09426 - 16e législature.* See the webpage (in French) of the French Senate at: https://www.senat.fr/questions/base/2023/qSEQ231209426.html .

4 "Dénonciation par le Mali et le Niger de leur convention fiscale avec la France," *Question écrite n°09399 - 16e législature*. See the webpage (in French) of the French Senate at: https://www.senat.fr/questions/base/2023/qSEQ231209399.html .

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Contact us

For additional information or assistance, please contact your local GMS or People Services professional or one of the following professionals with KPMG Avocats in France:

Alain Loehr
Partner
Tel. +33 (0)1 55 68 48 32
alainloehr@kpmgavocats.fr

Ann Atchadé
Partner
Tel. +33 (0)1 55 68 48 46
annatchade@kpmgavocats.fr

The information contained in this newsletter was submitted by the KPMG International member firm in France.

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