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# France: tax implications of talent mobility – cross-border movement of employees

## 1. Overview of the tax system

French individual income tax is based on the tax domicile. Residents face unlimited tax liability on their worldwide income, while non-residents are taxed only on French-source income. These domestic tax rules are subject to applicable bilateral tax treaties.

### *Basis of taxation: residence vs source*

Pursuant to Article 4 B of the French Tax Code (*Code général des impôts* or CGI), an individual is deemed a French tax resident if any one of the following is met: (1) the household or main residence is located in France; (2) the individual carries on a primary professional activity in France; (3) the centre of economic interest is located in France; or (4) the individual is a government employee serving abroad who is not subject to personal tax on their overall income in the host country.

Non-residents are taxed on French-source income as defined by Article 164 B of the CGI. Key categories include property income, investment income, business profits, earned income (remuneration for professional activities performed in France) and pensions or annuities paid by a French-domiciled debtor.

### *Calculation and collection mechanics*

Tax is assessed based on the household (*foyer fiscal*) rather than the individual. The income-splitting system (*quotient familial*) cushions the effects of progressive taxation by applying rates to the taxable income per family unit.

Since 2019, France has operated a withholding-at-source system (*Prélèvement à la Source* or PAS). For wages and pensions, the payer deducts the tax directly. For other income, the tax administration debits instalments from the taxpayer's bank account.

### *Special rules for non-residents*

As per Article 197 A of the CGI, non-residents' French-source income is subject to a minimum tax rate of 20 per cent on income up to the second tax band limit and a rate of 30 per cent on the excess. Non-residents may opt for the 'average rate' system if they can prove that the theoretical French tax on their worldwide income would be lower.

'Schumacker' non-residents (European residents who earn the vast majority of their income from French sources) may be treated as residents for tax calculation purposes, allowing them to claim standard deductions and credits.

## 2. Taxation of employment income

### 2.1. Scope of taxable income

#### *Salary*

Salary is taxable where the professional activity is physically performed, in line with Article 15 of the Organisation for Economic Co-operation and Development's (OECD) Model Tax Convention.

Salaries paid to non-residents for work performed in France are subject to a specific withholding tax (*retenue à la source*) under Article 182 A of the CGI. For 2025, the withholding rates are zero per cent (up to €17,275), 12 per cent (up to €50,112) and 20 per cent on the excess.

The zero per cent and 12 per cent bands are generally discharging (*libératoire*), while the 20 per cent portion is a deductible instalment against the final tax liability.

#### *Bonuses and one-shot payments*

Bonuses and deferred compensation are taxed in the country where the corresponding activity was performed. Bonuses related to past performance are taxable in the state of activity during the performance period, regardless of the payment date.

The French Council of State (*Conseil d'État* or CE) has ruled that payments originating from an employment contract (such as transactional indemnities or non-compete payments) are taxable as wages in France if the service was executed there.

#### *Equity compensation (stock options and restricted stock units (RSUs))*

Equity gains are bifurcated into an acquisition gain (treated as wages) and a capital gain (treated as investment income).

An acquisition/vesting gain is treated as employment income under Article 15 of the OECD Model Tax Convention. When an employee works in multiple states between grant and vesting, the acquisition gain is taxed in France in proportion to the number of days worked in France during this reference period (CE, 17 March 2010, *min c/ De Roux*).

Capital gains on the subsequent disposal of shares are generally governed by Article 13 of the OECD Model Tax Convention, reserving taxation in regard to the state of residence at the time of sale.

Article 163bis H of the CGI, introduced by the 2025 Finance Law and supplemented by administrative guidelines, establishes a specialised regime for 'management packages' that permits gains linked to employment or directorship to be taxed as capital gains rather than salary, provided the holder bears a genuine risk of capital loss.

The 2026 Finance Law further refined this framework by introducing tax deferrals for gains reinvested in the company and strictly prohibiting the inclusion of these specific securities in equity savings plans (*plan d'épargne en actions* or PEAs).

#### *Allowances and benefits in kind*

Most allowances and benefits in kind (housing, company cars, health insurance, life insurance premiums) are included in the taxable base. Specific professional expense allowances used for their intended purpose may be excluded from the tax base.

## *The Impatriate Tax Regime (Article 155 B of the CGI)*

Foreign employees impatriated to France or recruited directly from abroad can benefit from an eight-year tax incentive, provided they have not been French tax residents during the five years preceding their arrival.

The following apply in this regard:

- impatriation premium: an amount specifically provided in the contract (or calculated as a 30 per cent lump-sum option) is exempt from French income tax;
- activity abroad: the portion of salary relating to professional missions performed outside France is also exempt from taxation; and
- passive income: 50 per cent of foreign-source dividends, interest and certain capital gains is exempt for the duration of the eight-year period.

Regarding salaries, the exemption is capped to ensure that the remaining taxable remuneration is at least equal to that of a comparable local employee. Additionally, the total exempt amount is subject to a global ceiling of 50 per cent of the individual's net remuneration (or 20 per cent for the portion relating specifically to activity abroad).

### **2.2. Source rules**

Under Article 164 B, I-d of the CGI, remuneration for professional activities performed in France is deemed to be French-source income. The source is determined according to where the employee is physically present while performing the work. The location of the employer or the payment are irrelevant.

For corporate officers (*mandataires sociaux*) employed by French companies, the CE has established a strong presumption that their duties are performed in France, even if the individual works remotely from abroad (CE, 5 February 2024, No 469771, *Sté Axa Group Operations*).

Equity compensation is sourced on a pro rata temporis basis over the grant-to-vesting period.

### **2.3. Tax rates**

#### *Resident progressive scale (2025 income)*

The following tax rates apply:

- zero per cent: up to €11,600;
- 11 per cent: €11,601 to €29,579;
- 30 per cent: €29,580 to €84,577;
- 41 per cent: €84,578 to €181,917; and
- 45 per cent: amounts above €181,917.

#### *Non-resident minimum rate*

Under Article 197 A of the CGI, a minimum tax rate of 20 per cent applies on net taxable income up to the upper limit of the second band, and 30 per cent on the excess. Taxpayers may opt for the average rate if they can justify that their global effective rate would be lower.

#### *High earner surtax (contribution exceptionnelle sur les hauts revenus or CEHR)*

An additional surtax applies to both residents (worldwide income) and non-residents (French-source income): three per cent on income above €250,000 (single) or €500,000 (joint), and four per cent on income above €500,000 (single) or €1m (joint).

From 2025, the differential contribution on high incomes (*contribution différentielle sur les hauts revenus* or CDHR) has introduced a minimum 20 per cent effective tax rate on high-earning households domiciled in France.

### *Flat expatriate and incentive rates*

The following rates apply:

- expatriate supplements (Article 81 A of the CGI): for residents sent abroad, certain supplements are exempt, with a partial exemption option capped at 40 per cent of the reference remuneration; and
- investment income (*prélèvement forfaitaire unique* or PFU): most investment income and capital gains are subject to a flat-rate tax of 30 per cent (12.8 per cent income tax and 17.2 per cent social levies).

## **2.4. Miscellaneous issues**

### *Employer withholding obligations*

Employers must apply the non-resident withholding tax stipulated in Article 182 A of the CGI on wages paid for activities physically performed in France, regardless of whether the employer is established in France. If the employee qualifies as a French tax resident (Article 4 B of the CGI), the standard PAS system applies instead. A neutral (non-personalised) rate is used for new arrivals until a tax return is filed.

Employers remit the non-resident withholding via Form 2494-SD by the 15th of the month following the end of each quarter. Failure to withhold triggers interest and penalties under Articles 1727–1731 of the CGI.

### *Social security contributions*

The generalised social contribution (*contribution sociale généralisée* or CSG) (9.2 per cent) and the contribution for the repayment of social debt (*contribution au remboursement de la dette sociale* or CRDS) (0.5 per cent) apply to income earned by individuals domiciled in France who are affiliated with a French compulsory health insurance scheme.

According to Court of Justice of the European Union (CJEU) case law (*de Ruyter*), individuals affiliated with another European Union /European Economic Area/Swiss scheme are exempt from CSG/CRDS on investment income but face a 7.5 per cent solidarity levy on French-source property income.

### *Exemptions*

The impatriate regime (Article 155 B of the CGI) provides significant exemptions for qualifying expatriates (see above).

Additionally, specific professional expense allowances (eg, headquarters/logistics centre reimbursements) may be excluded from the tax base.

## **3. Permanent establishment (PE) risks**

### **3.1. Dependent agent PE**

A foreign enterprise may be deemed to have a taxable presence in France through a dependent agent PE when an employee habitually exercises the authority to conclude contracts or plays a principal role in their conclusion.

In this scenario, the use of binding powers must be regular and non-occasional. A single temporary mission does not suffice.

The CE has moved beyond a formalistic approach in this regard: in *Conversant International* (11 December 2020 and 4 April 2025, Nos 461220 and 461310), the Court ruled that a PE exists if an employee habitually decides on transactions that the foreign company merely rubber-stamps, even if the formal signature occurs abroad.

France has adopted the Multilateral Instrument (MLI) provisions targeting commissionnaire arrangements and anti-fragmentation rules.

Employees who actively negotiate key contract elements (price, quality, quantity) are typically viewed as performing core business functions. In *P&O Ferrymasters* (4 April 2018), the Court found a PE to exist where a French entity performed all client prospecting, negotiation and price determination, even though a foreign principal nominally validated the relevant choices.

## 3.2. Fixed place PE

### *Home office risks*

The French tax authorities have recently stabilised the long-term tax framework for cross-border teleworking, transitioning from temporary Covid-19 rules to permanent treaty amendments, please see below for further details on the related recent developments.

Occasional telework does not generally trigger PE status. However, a home office constitutes a PE if it serves as a seat of management, if teleworking is the enterprise's norm or if the employee habitually concludes contracts from home.

In *Stamping International* (7 September 2009), the CE found a PE to exist where a manager performed all of her current management activities from her French home.

In *Paulo et Célia* (6 May 2021), a Portuguese transport company was found to have a PE because its manager directed the company's finances from his residence in France.

In addition, France has implemented new reporting obligations for foreign entities employing French residents, as follows:

- PAYE obligations: non-resident employers must manage withholding tax (PAS) for employees residing in France who are not affiliated with the French social security system;
- Declaration 87-0 A bis: foreign employers must file this specific annual declaration detailing the net taxable income and withholding amounts by 10 February of the following year; and
- social security unicity: French residents working for foreign companies who are faced with a 'possibility' of telework remain subject to the social security legislation in the employer's country (eg, Luxembourg) provided that they do not for a substantial part of their time habitually work in France.

### *Long-term project offices*

Under the OECD Model Tax Convention, a project office becomes a PE only if it exists for more than 12 months (some treaties reduce this to six months). Temporary interruptions (including Covid-19 restrictions) are generally included in the duration count. Successive projects forming a commercially and geographically coherent whole may be aggregated.

## 3.3. Complete business cycle PEs (domestic law)

Under Article 209-I of the CGI, a foreign enterprise is subject to French corporation tax on profits derived from enterprises operated in France. A 'complete business cycle' (*cycle complet d'opérations*) is characterised when the enterprise habitually carries out a series of commercial operations forming a coherent and self-sufficient economic whole.

This domestic concept is often broader than the relevant treaty PE definitions. Under Article 55 of the French Constitution, treaty provisions should prevail over domestic law, so the complete cycle criterion is neutralised if the applicable treaty defines PE only as a fixed place or dependent agent.

An administrative safeguard exists in this regard, namely foreign enterprises can request a formal ruling (*rescrit*) from the French tax administration confirming that their French activities do not constitute a PE. A positive response is binding on the administration.

## 4. Exit tax/departure rules

### *Scope and thresholds*

The French exit tax (Article 167 bis of the CGI) applies to individuals who have been French tax residents for at least six of the ten years preceding their departure. Taxation is triggered if the total value of securities exceeds €800,000 or the household holds at least a 50 per cent interest in a single company.

The tax generally applies at a flat rate of 31.4 per cent (12.8 per cent income tax, plus 18.6 per cent social levies) on unrealised capital gains on shares and securities held on the departure date.

### *Impact on latent or deferred capital gains*

Unrealised capital gains: gains on shares and securities held on the departure date.

Deferred-tax capital gains: previously realised gains for which taxation was deferred (eg, contributions of shares under Article 150-0 B ter of the CGI).

For equity compensation such as stock options and RSUs, the acquisition gain is characterised as salary. France retains the right to tax the gain in proportion to the time worked in France during the reference period. Under Article 182 A ter CGI, this gain is subject to withholding upon the ultimate disposal of shares.

### *Deferral (sursis de paiement)*

Automatic deferral (no collateral): for transfers to EU/EEA countries (except Liechtenstein) or jurisdictions with mutual administrative and recovery assistance agreements.

Conditional deferral: for other jurisdictions, the stay requires an express request, a French tax representative and guarantees equal to 30 per cent of the gain.

The tax is definitively waived if the securities are still held after two years (or five years for households with assets exceeding €2.57m) for departures after 1 January 2019.

### *Reporting requirements*

Initial declaration (Form 2074-ETD): filed the year following departure.

Prior request for conditional stay: Form 2074-ETD and guarantee proposals must be submitted 90 days before the transfer.

Annual follow-up (Form 2074-ETS): required to report continued ownership of the assets.

It should be noted that a failure to comply terminates the deferral, making the tax due immediately.

## 5. Recent developments and case law

### 5.1. Impatriate regime clarifications

Administrative guidelines now confirm that the regime applies to individuals recruited from abroad through online job offers, provided they are not already French residents.

The impatriation premium no longer needs to be a fixed sum: it is sufficient if the premium is determinable based on objective criteria defined in the employment contract.

The CE has ruled that the 30 per cent lump-sum option applies to the entire taxable remuneration, including termination indemnities (CE, 4 October 2023, No 466714).

## 5.2. Cross-border teleworking and treaty amendments

In a recent case, the Administrative Court of Paris (*Le Tribunal Administratif de Paris* or TA Paris) held that a German national employed as an assistant professor at Sciences Po Paris was taxable in France on her entire salary, despite regularly teleworking from Germany where she resided with her spouse. The taxpayer argued for a day-by-day apportionment of taxing rights under Article 13 of the France–Germany Double Taxation Treaty, reflecting her physical presence in each country. The Court rejected this, ruling that remote work from Germany was merely a '*modalité d'exercice*' of an employment relationship contractually located in France, thus no proration was warranted (TA Paris, 7 April 2026, No 2314176).

This reasoning extends to ordinary employees. As per the functional approach previously applied to corporate officers in *Sté Axa Group Operations* (CE, 5 February 2024, No 469771), where occasional remote work abroad did not displace the presumption that a director's duties were performed in France. If confirmed on appeal, this logic could significantly reduce the relevance of physical presence as the sole criterion for sourcing employment income under tax treaties, but could equally shield individuals teleworking from France for a foreign employer from French taxation, on the ground that their employment is exercised abroad.

The following are noteworthy in this context:

- Swiss amendment: a permanent regime allows cross-border workers to telework up to 40 per cent of their time without affecting their tax status. The automatic exchange of salary data will be implemented;
- Luxembourg amendment: the teleworking threshold has been increased from 29 to 34 days (effective for 2024 income); and
- new decrees require non-resident employers to report salary data and manage withholding for employees residing in France who are not covered by the French social security system.

## 5.3. Management packages and equity compensation

### *New regime for management packages*

Article 163bis H of the CGI (effective as of 15 February 2025) establishes a new framework for management packages, clarifying the allocation of gains between salary income and capital gains for both residents and non-residents.

The framework applies to specific instruments, including ordinary shares, preferred shares and subscription warrants (*bon de souscription d'actions* or BSA and *bons de souscription de parts de créateur d'entreprise* or BSPCE), while simple bonds are specifically excluded.

As a principle, gains linked to employment or directorship are taxed as salaries.

However, such gains can be taxed as capital gains (ie, 31.4 per cent flat rate), provided (1) the holder bears a genuine risk of capital loss and (2) the securities are held for a minimum period of two years.

Gains can only be taxed as capital gains up to a performance 'multiple' threshold. This is a formulaic method to differentiate between investment-based capital gains and employment-related compensation.

The 2026 legislative update introduced an optional tax deferral for gains that are reinvested into the company. Additionally, the reform strictly prohibits including these specific securities in equity savings plans (PEA).

## *Gains exercised by an heir*

The CE has also ruled that acquisition gains from stock options exercised by an heir remain characterised as salary, granting France the right to tax the gain if it remunerates French-source activity (CE, 29 November 2024, No 489304).

### **5.4. Presumption of activity for corporate officers**

French courts have strengthened the presumption that corporate officers of French entities perform their duties in France. A mandate-holder based in London who spent over 200 days there was still taxed in France, with the Court of Appeal of Paris (*La cour administrative d'appel de Paris* or CAA Paris) holding that the habitual exercise of duties for a French-headquartered company remains localised at the seat of the company (CAA Paris, 11 April 2025, No 23PA02576).

### **5.5. Extended compliance and enforcement**

Statute of limitations: effective from 16 February 2025, the administration's audit right has been extended to ten years in cases of false domiciliation abroad (Article L 169 of the Tax Procedure Code (*Livre des Procédures Fiscales* or LPF)).

The authorities increasingly use lifestyle data (utility consumption, bank transactions, airline passenger data) to challenge foreign residency claims.

Real estate occupancy: all owners of residential property in France must declare the nature of occupancy before 1 July each year (Article 1418 of the CGI).

Digital assets: reporting requirements for foreign digital asset accounts have been extended to all legal entities. The failure to report triggers a potential ten-year limitation period and an 80 per cent surcharge (Article 1729-0 A of the CGI).

### **5.6. Telework and PE**

Administrative guidance (Réponse ministérielle Weber, No 01566, 6 February 2025) confirms that occasional telework does not by itself characterise a fixed-place PE.

However, a PE may be identified if teleworking becomes the enterprise's norm or if the employee habitually concludes contracts from home.

## **6. Key takeaways**

The major risks for employers include:

- withholding obligations arise from the first day an employee works in France, regardless of whether the employer is established in France, but subject to bilateral treaty provisions;
- a dependent agent PE can be triggered by sales or management employees who habitually negotiate or conclude contracts from France, even without the establishment of a formal office;
- home-office arrangements may create a fixed-place PE if teleworking becomes the norm or if the employee performs core management functions from France; and
- the ten-year statute of limitations for false domiciliation abroad significantly increases enforcement risk.

The major risks for employees include:

- exit tax applies broadly to individuals who have been French residents for six of the past ten years, with strict reporting obligations and immediate maturity in the case of non-compliance;
- equity compensation (stock options, RSUs) is subject to pro rata temporis taxation in France for the grant-to-vesting period, regardless of residence at the time of exercise or sale; and
- corporate officers of French companies face a near-irrebuttable presumption that their remuneration has a French source, even if they reside and work abroad, and so do teleworkers.

Key planning considerations include:

- the impatriate regime (Article 155 B of the CGI) offers substantial tax savings for qualifying expatriates and should be evaluated early in the relocation planning process;
- cross-border teleworking thresholds (eg, 40 per cent for Switzerland, 34 days for Luxembourg) must be carefully monitored to preserve any applicable tax treaty protection; and
- foreign enterprises should consider requesting a formal PE ruling (*rescrit*) from the French tax administration to secure legal certainty.