

France

Individual Taxation

Introduction

Resident individuals are subject to income tax on their worldwide income. The tax is generally imposed on the aggregate amount of all items of income at progressive rates. However, certain types of income are taxed separately at flat rates. Residents pay a number of social taxes, which are partly deductible for income tax purposes if levied on income taxed at progressive rates. A net wealth tax and an inheritance and gift tax also apply. For VAT and miscellaneous indirect taxes, see Corporate Taxation, 8. and Corporate Taxation, 9., respectively.

The French Republic consists of Metropolitan Departments (European territories) and Overseas Departments (DOMs). French tax law is normally applicable in the DOMs of French Guyana, Guadeloupe, Martinique and Réunion, but is adapted to the particular economic and social situation of these departments. Only the Metropolitan Departments are covered in this chapter.

The currency is the euro (EUR).

1. Income Tax

1.1. Taxable persons

Resident individuals are persons who have a home or principal abode in France, perform employment or independent services (unless such activity is only ancillary) or have their centre of economic interests in France. Civil servants posted abroad and not assessed therein on their income are deemed resident in France. French nationals living in Monaco are deemed resident in France unless they have been resident in Monaco for longer than 5 years by 13 October 1962.

The income tax is imposed on the household rather than on each of the spouses separately. Separate assessment is made in exceptional cases only. The income of the household comprises that of the spouses and of their unmarried children under 18 years of age (25 years if they are students). Unmarried individuals who live together and have concluded a partner contract (known as "PACS") are generally treated in the same manner as spouses for income tax purposes.

Unless they elect for corporate taxation, partnerships are not subject to tax but the partners are directly assessed on a proportional share of the income, whether or not distributed.

1.2. Taxable income

1.2.1. General

In principle, residents are subject to tax on their worldwide income, unless otherwise provided by a tax treaty. Non-residents are subject to tax on their French-source income only (see 6.3.).

Under French tax law, the assessment for tax purposes is made on income derived in the previous year. Accordingly, in 2009 the assessment is made for 2008 income. Generally, the Finance Law adopted at the end of the year provides for the new figures that will apply to income of that year, as assessed in the following year.

There is no definition of taxable income. Generally speaking, taxable income is the total of the net results of each of the taxpayer's income categories. The income categories are:

- employment income (including income from prior employment);
- business income;
- income from immovable property;
- agricultural income;
- professional income (income from "non-commercial" activities, e.g. from the legal and medical professions and income from activities not classified into any other category);
- income from activities performed by certain managers controlling family companies or limited partnerships;
- investment income (income from movable property); and
- capital gains.

The net result of each category is the gross income less the expenses incurred in acquiring or preserving the taxable income.

Income is first computed and adjusted according to each category's own rules (see 1.3. to 1.5.). Net results of all categories are then added up to form the gross aggregate income. Personal deductions (see 1.7.1.) and allowances (see 1.7.2.) are then applied to arrive at the net aggregate income. The income tax computed thereon (see 1.9.1.) is reduced by certain credits discussed in 1.7.3.

Certain types of income, such as gains on certain sales of shares, are subject to flat rate taxes in complete satisfaction of tax liability on such income.

To mitigate the progression of the income tax, a spreading option is allowed with respect to exceptional non-recurring income (e.g. liquidation distribution from a company) which exceeds the taxpayer's average taxable income of the preceding 3 years. The spreading applies as follows: one fourth of the exceptional income is

added to the taxpayer's ordinary taxable income of the relevant year; the surplus income tax corresponding to this one fourth of exceptional income is multiplied by four to arrive at the total income tax on the exceptional income. The spreading option applies also to deferred income, i.e. income which is normally paid periodically but for reasons beyond the taxpayer's control is paid in 1 year (e.g. income blocked abroad), irrespective of its amount.

1.2.2. Exempt income

Subject to various conditions, significant exemptions include:

- compensation for overtime work (see 1.3.1.);
- certain redundancy payments and retirement compensations;
- employment income of students below 25 years, subject to a ceiling (three times the monthly legal minimum wage);
- life annuities acquired for consideration, depending on the age of the beneficiary (see 1.3.3.); and
- certain types of capital gains (see 1.6.).

1.3. Employment income

1.3.1. Salary

Employment income is subject to income tax at progressive rates (see 1.9.1.), as well as to the social taxes (CSG and CRDS, see 2.2.). Social security contributions (see 3.) are generally withheld by the employer. Compensation for overtime work of employees is exempt from individual income tax and social security contributions (see 3.) under certain conditions.

Employment income includes salaries, commissions and any employment-related allowances, as well as benefits in kind. Taxable income is computed by first reducing the total gross employment income by the deductible social security contributions (see 3.). From the balance the taxpayer may deduct a *basic deduction*, which is the higher of two amounts: (a) actual substantiated expenses, or (b) a lump sum of 10% of the balance, with a minimum of EUR 413 and a maximum of EUR 13,893 (in 2009).

Finally, the remaining income is further reduced by deductible CSG (see 2.2.1.).

Costs of moving incurred by an employee are deductible from his taxable income but only if the moving is necessary for his work or career, or to start a new job.

1.3.2. Benefits in kind

Benefits in kind, i.e. any remuneration in kind received by an employee from his employer, are generally taxable as employment income. Taxable benefits include a company car, free housing (including energy bills paid by the employer) and free meals. Benefits other than housing and meals are valued at their fair market value. Free housing and meals are generally valued by reference to the notional rental value of the occupied house taken as a taxable base for the assessment of the dwelling tax

(see 4.2.2.) and to the amount of the minimum salary per hour.

Stock options are subject to complex rules distinguishing the tax treatment on the basis of a 4-year holding requirement.

The mechanism for free share distributions to employees and managers (including directors) applies under certain company law conditions (e.g. a 4-year holding period). Two tax components must be distinguished:

- (1) the acquisition value of shares granted free is subject, upon the disposal of the shares, either to a flat rate of 30%, or if opted, to income tax at the progressive rates; and
- (2) the capital gains on the disposal of the shares, which is equal to the difference between the sale price and the acquisition value. The gains are subject to the rules applicable to capital gains and losses on securities (see 1.6.3.).

Disbursed expenses incurred by the employee on behalf of his employer are not taxable.

1.3.3. Pension income

Pension income subject to income tax includes income paid by public and private employers for prior employment, certain pensions for old age and disability paid under a social security scheme, proceeds from retirement savings schemes concluded before 30 June 1999, alimony paid to a former spouse, maintenance paid for children under a legal obligation or a court order (see 1.7.2. for corresponding deductions), and life annuities for no consideration (e.g. a life annuity granted to a child as a wedding gift).

In addition to income tax, pension income is subject to the social taxes (CSG and CRDS, see 2.2.).

For income tax purposes, the taxable base consists of income net of social security contributions (see 3.), less a 10% deduction, with a minimum of EUR 367 and a maximum of EUR 3,592 per household (in 2009).

Life annuities acquired for consideration are only partially subject to income tax. The taxable portion varies according to the age of the recipient when the first payment is made, as follows:

Age	Taxable portion (%)
under 50	70
50 to 59	50
60 to 69	40
70 or older	30

The taxable portion does not entitle the recipient to the basic deduction discussed in 1.3.1.

For the deductibility of social security contributions, see 3.

1.3.4. Directors' remuneration

The remuneration received by the president of the board of directors and the members of the directorate of a corporation (SA) is deemed to be salary income (see 1.3.1.). The remuneration received by the members of

the board of directors or the supervisory board falls under the category of investment income.

Remuneration paid to the managers of limited liability companies is normally taxed as salary income. However, the remuneration received by managers who individually or jointly own more than 50% of the share capital is subject to tax under a different heading, but is computed according to the rules applicable to the employment income category (see 1.3.1.).

1.4. Business and professional income

1.4.1. Business income

The category “business income” mainly includes profits from:

- industrial, commercial and handicraft activities;
- real estate transactions by dealers in immovable property and in businesses; and
- the letting of furnished residential property and business premises.

Expenses incurred in acquiring and securing taxable business income are generally deductible. A number of other allowances and tax reductions is available, e.g. for investment in certain areas or sectors and for the establishment of new enterprises.

Taxable business income is subject to the ordinary progressive income tax rates (see 1.9.1.) and the social taxes (CSG and CRDS, see 2.2.). If the taxpayer is not a member of one of the official accounting centres which handles or controls his accounts, the taxable income is multiplied by a 1.25 coefficient for tax computation purposes.

Profits realized by partnerships that do not opt to be taxed as companies are taxed in the hands of the partners as business income.

1.4.2. Professional income

The category “professional income” includes mainly income from liberal professions, income from non-commercial offices (e.g. notaries) and income from any activity that is not classified into another category.

Generally, taxable professional income is determined by reference to the difference between receipts and expenses incurred during the taxable period, on a cash accounting basis, unless the taxpayer opts for the regime under which taxable income is computed on an accrual basis.

Taxable professional income is subject to the ordinary progressive income tax rates (see 1.9.1.) and the social taxes (CSG and CRDS, see 2.2.). If the taxpayer is not a member of one of the official accounting centres which handles or controls his accounts, the taxable income is multiplied by a 1.25 coefficient for tax computation purposes.

1.5. Investment income

1.5.1. Dividends

Dividends are assessed to income tax at the progressive income tax rates (see 1.9.1.), but only for 60% of their amount. Resident individuals benefit annually from a tax-free allowance (EUR 1,525; double for couples) and a modest tax credit (EUR 115; double for couples) in respect of dividends. From 1 January 2008, however, there is an option to subject dividends (60%) to a final levy at a rate of 18% (30.1% with the 12.1% social taxes, see 2.2.).

For foreign-source dividends, see 6.1.1.

1.5.2. Interest

French-source interest is generally subject to income tax at the progressive rates (see 1.9.1.). However, a final levy (*prélèvement libératoire*) at flat rates may apply. For residents, it is generally optional, except with respect to a few types of interest for which it is compulsory. The deduction of incurred expenses is generally not allowed where the final levy applies.

The rates of the final levy vary considerably, depending on the type of interest and, sometimes, on the issuing date of the securities. Some examples include:

- 18% on interest on government and corporate bonds, loans, deposits, guarantees and current accounts; and
- 35% to 60% on interest on *bons de caisse* and *bons du Trésor*.

To these rates residents must add the 12.1% social taxes (see 2.2.), which are not deductible for income tax purposes. Another 2% is levied on the face value of *bons* if the identity of the recipient is not disclosed.

Payers of interest are required to withhold tax at a rate of 10% or 12% on interest on state bonds issued prior to 1 October 1984, corporate bonds issued prior to 1987 and *bons de caisse* for which the option for flat rate taxation is not exercised. This withholding tax is creditable against the recipient’s income tax or *prélèvement*, as the case may be.

Capitalization contracts (i.e. contracts often coupled to life insurance policies under which accrued proceeds are compounded) are subject to the *prélèvement* at variable rates depending on the date of their conclusion. Generally, for contracts concluded from 25 September 1997, the rate is 35% if the duration is less than 4 years, 15% if between 4 and 8 years, and 7.5% if 8 years or more. In addition, the proceeds from capitalization contracts are subject to the 12.1% social taxes (see 2.2.).

1.5.3. Royalties

Royalties related to patents, patentable inventions and qualifying production processes accessory thereto are treated as long-term capital gains when received by individuals engaged in a business. The same applies to royalties on original software received by independent professionals. The tax is levied at a flat rate of 16%, increased to 29.1% by the 12.1% social taxes (see 2.2.),

on the income less incurred expenses. However, the taxpayer may opt for taxation at the ordinary progressive rates (see 1.9.1.). The flat rate does not apply if the licensee deducts the royalties for income tax purposes and the licensor or licensee directly or indirectly controls the licensee or licensor, respectively.

Other types of royalties (e.g. trademark and copyright royalties) are subject to tax at the ordinary progressive rates (see 1.9.1.) after deducting actual expenses.

1.5.4. Immovable property

Income from immovable property consists of rents received directly or through fiscally transparent real estate companies. It covers income derived from buildings, and developed and undeveloped land. Income from the letting or subletting of property which qualifies as a business asset and of equipped business premises are taxed under the relevant income category (business income, professional income or agricultural income). The tax is levied on income after deduction of all expenses relating to the maintenance, repair and improvement of the property. Interest on loans taken for the acquisition and the repairs is deductible. The taxpayer may opt for a notional deduction at a variable rate with respect to the management of the property, insurance and depreciation, depending on the type of the property and the date of its acquisition.

1.6. Capital gains

1.6.1. Business assets

Capital gains from the disposal of business assets by an individual may be taxed in one of two ways, depending on whether they are short-term or long-term gains.

Short-term gains, i.e. gains from the disposal of assets held for less than 2 years, are taxed as business income (see 1.4.1.). An option to spread the gains over 3 years is available.

Long-term gains, i.e. gains from the disposal of assets held for at least 2 years, are subject to tax at a flat rate of 16%, increased to 28.1% by the 12.1% social taxes (see 2.2.). The tax is levied on the sales price less the acquisition cost. Any recaptured depreciation is taxed as ordinary business income. Generally, long-term gains are exempt if the taxpayer's turnover does not exceed a certain ceiling and the activity is exercised for 5 years or more.

Entrepreneurs and small and medium-sized enterprises (SMEs) subject to individual income tax whose annual turnover (excluding VAT) does not exceed EUR 27,000 (for suppliers of services) or EUR 76,300 (for suppliers of goods) are exempt from tax on capital gains derived from the disposal of business assets, except in certain limited cases.

Capital gains derived from the transfer by way of a donation or a gift *mortis causa* of an individual enterprise or of shares in a partnership in which the partner carries on his professional activity are generally rolled over until the sale or the end of the activity; in any

case, such gains become exempt after the beneficiary has carried on the activity for 5 years.

Entrepreneurs and SMEs subject to individual income tax are exempt from tax on capital gains derived from the sale or the transfer by way of a donation or a gift *mortis causa* of a complete branch of activity (excluding gains on immovable property) the value of which does not exceed EUR 300,000. A partial exemption applies where the value of the complete branch of activity exceeds EUR 300,000 but is less than EUR 500,000.

1.6.2. Immovable property

Capital gains on immovable property or rights thereon, e.g. participations in real estate partnerships whose assets consist for more than 50% of immovable property, are subject to tax at a flat rate of 16%, increased to 28.1% by the 12.1% social taxes (see 2.2.). In calculating such gains, the acquisition cost is increased by 15%. The gain so calculated is further reduced by 10% for each year of ownership beyond the fifth year, which means that gains on property held for 16 years are exempt.

Capital gains on the transfer of the taxpayer's principal residence are exempt from tax. Gains on any immovable property are exempt if the sales price does not exceed EUR 15,000.

1.6.3. Securities

Capital gains from habitual sales of shares are taxed in the professional income category (see 1.4.2.).

Occasional capital gains on shares, bonds and similar securities held in resident or non-resident entities are subject to tax at a flat rate of 18%, increased to 30.1% by the 12.1% social taxes (see 2.2.) if the aggregate sales proceeds from such transactions exceed EUR 25,730 (in 2009). The rules apply regardless of the degree of participation, type of securities (quoted or unquoted) and type of entity in which the participation is sold. This regime also applies to gains on shares in real estate companies (capital companies, i.e. SA, SAS, SARL) whose assets consist for more than 50% of immovable property). Under certain conditions, the annual aggregate proceeds may be determined as the average of such proceeds realized in the current year and in the preceding 2 years. The same applies to gains on participations in fiscally transparent entities, unless the seller is personally active in the entity, in which case the gains are deemed to be business portfolio gains, which are subject to the rules described in 1.6.1.

From 1 January 2006, capital gains derived from the sale of shares in companies resident in France or another EEA country (except Liechtenstein) benefit from a progressive exemption after a 5-year holding: one third of the gains is exempt in year 6, two thirds of the gains are exempt in year 7 and the total gains are exempt in year 8. The gains, however, remain subject to the 12.1% social taxes (see 2.2.). The computation of the holding period begins from 1 January 2006 for shares acquired prior to that date. This measure will take effect partially from 2012 and fully from 2014. However, the exemption applies already from 1 January 2006 to capital

gains on the sale by directors of small and medium-sized enterprises (SMEs) of shares held in their own SMEs at the moment of their retirement, subject to several conditions. In practice, directors of SMEs who had held their shares in the transferred company for more than 8 years are exempt from tax on the gains derived from the sales of such shares. The gains, however, remain subject to the 12.1% social taxes (see 2.2.).

Capital gains derived from the sale of shares in “innovative new companies” are exempt, provided that the individual shareholder has owned the shares for at least 3 years and the sold shares represent less than 25% of capital. These rules apply only to shares subscribed on or after 1 January 2004.

Subject to a number of conditions, rollover relief is available for gains realized upon a merger, division or exchange of shares.

1.7. Personal deductions, allowances and credits

1.7.1. Deductions

Certain deductions from the aggregate income are related to the family situation of the taxpayer, the most important of which are listed under personal allowances (see 1.7.2.). The law also provides for other types of deductions granted independently from the taxpayer’s family situation. Deductions which apply to specific types of income are discussed in 1.3.1. to 1.6.

The most important deductions that apply to the aggregate income include:

- qualifying direct investments in certain French Overseas Departments made by 31 December 2017 entitle the taxpayer to a deduction of invested amounts from his aggregate income;
- union membership fees are deductible up to a certain maximum; and
- subject to certain conditions, interest on a loan taken by an individual to acquire the majority of the voting rights in an unlisted company is deductible up to a maximum of 25% of the interest paid not exceeding EUR 10,000 (EUR 20,000 for couples), i.e. the maximum deduction is EUR 2,500 or 5,000, respectively.

Subscribers to the popular pension savings plans (PERP) are entitled to a deduction for the premiums paid. The deduction is generally limited to 10% of (a) the taxpayer’s taxable employment, business or professional income of the previous year up to EUR 25,747 (in 2009) or (b) the applicable annual social security ceiling (see 3.) up to EUR 3,218 (in 2009), whichever is higher.

For the deductible CSG, see 2.2.1.

1.7.2. Personal allowances

Deductions from the aggregate income related to the family situation of the taxpayer include (in 2009):

- subject to certain conditions and ceilings, the taxpayer may deduct alimony paid to a former spouse and maintenance paid for children under a legal

obligation or a court order (see 1.3.3. for the taxation of the recipients);

- where a child who has started his own family continues to be declared with his family on his parents’ income tax return, the taxpayer is entitled to a deduction equal to EUR 5,729 per dependent person (i.e. EUR 11,458 for a couple and additional EUR 5,729 per dependent person); and
- taxpayers who are invalids or over 65 and whose net taxable income does not exceed EUR 13,950 may deduct EUR 2,266 from that income. The deduction is limited to EUR 1,133 if the total net income is between EUR 13,950 and 22,500 and doubled if both spouses qualify.

1.7.3. Credits

Income tax computed on the aggregate income is reduced by certain tax credits. The most important credits are described below.

1.7.3.1. Employment bonus

The employment bonus is a tax credit available to each eligible working member of a tax household, provided that the aggregate income of the tax household is below EUR 16,251 (double for couples) and increased by EUR 4,490 for every half *share* exceeding the initial one *share* (single, divorced or widow) or the initial two *shares* (married) (see 1.9.1.2.).

Eligible working members are the employed or self-employed earning up to EUR 17,451 (EUR 26,572 for a single, divorced or widowed person with one child or more; or for a married person with a non-working spouse). The credit is equal to 7.7% of the annual employment or self-employment income earned when not exceeding the minimum wage (EUR 12,475), increased by EUR 36 for each dependent person (double for the first child of a single, divorced or widowed person). If the earned income exceeds this amount, the credit is 17% of the difference between the earned income and the ceiling (EUR 17,451 or 26,572, as the case may be). The credit is assessed by the tax authorities and is aggregated at the household level. If the total tax credits exceed the household’s income tax liability, the excess is refunded.

1.7.3.2. Share subscription

The subscription until 31 December 2011 to shares in qualifying small and medium enterprises located in an EEA country (except Liechtenstein) entitles the taxpayer to a tax credit equal to 25% of the amount of the investment, with an annual limit of EUR 20,000 (double for couples). The credit is granted only if the shares are held for a certain period of time and that 50% or more of the shares of the company are directly or indirectly held by individual shareholders.

Under certain conditions, the subscription to shares in so-called innovation investment funds until 31 December 2011 entitles the taxpayer to a tax reduction equal to 25% of the invested amounts, within an annual maximum of EUR 12,000 annually (double for couples).