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**RÉPUBLIQUE FRANÇAISE**

# **FRENCH TAXATION**

DIRECTION GENERALE DES IMPOTS  
DIRECTION DE LA LEGISLATION FISCALE

# **FRENCH TAXATION**

**(Updated to 1 April 2005)**

(This paper offers a brief overview of French taxation. It should in no event be construed as the official doctrine of the department by which it has been drafted)

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## INTRODUCTION

Mainly intended for foreign readers, this brochure is an outline of the French tax system. To understand French taxation, it is first necessary to determine the place of taxation among mandatory levies in general and thereafter to place taxation in the French legal system.

### I - Definition of tax compared with other compulsory levies

Mandatory levies include taxes, quasi-taxes, fees for services rendered, customs duties and social security contributions.

Taxes are financial burdens borne by individuals and corporate bodies according to their ability to contribute and without a specific compensation, in order to cover public expenditure and achieve the economic and social objectives set by the public authorities.

Quasi-taxes, which accounted for a very small part of compulsory levies, were created for economic, professional or social purposes in favour of statutory or private law bodies other than the State, local government authorities and their public administrations, i.e. most often professional organizations. Article 63 of the Organic law n° 2001-692 of August 1, 2001 relating to the Finance Laws removed, as from January 1, 2004, quasi-taxes. These were replaced by affected fiscal-taxes, voluntary contributions or budgetary allowances according to the economic sector.

Fees for services rendered (and fees paid for the use of certain public services or in return of the right to use them) are also mandatory levies but are not strictly speaking taxes as they entitle the payer to a compensation.

Customs duties are distinguished from taxes by their strictly economic characteristic, as their purpose is to protect the domestic market. However, certain mandatory levies charged by the customs are taxes: the value-added tax collected on goods imported from non-Member States of the European Union, excise, and domestic tax on mineral oil products which is applied regardless of their origin.

Lastly, although mandatory, social security contributions are not taxes as they are assessed for a specific purpose - social protection - and as benefits are paid in return. Moreover, such contributions are not voted by Parliament but are set by ministerial decrees after consultation of labour and management. However, certain taxes assessed on the income of individuals are fully earmarked for social organizations and do not entitle taxable persons to a direct compensation.

## II - The position of tax in the French legal system

Legally, tax is rooted in Article 13 of the Declaration of Human and Civic Rights of 1789, which provides for equitable apportionment of tax among all citizens according to their ability to contribute. Article 14 of this Declaration provides that citizens have the right to ascertain, personally or through their representatives, the necessity of public contribution, to consent to it freely and to monitor its use and to determine its rate, assessment basis, collection and duration.

Unlike other mandatory levies, tax can therefore be assessed and collected only in compliance with an act of the legislature, i.e. Parliament.

This principle is laid down in Article 34 of the Constitution, establishing the rules in respect of assessment basis, rate and collection modes for any kind of taxes. In other words, intervention by the executive is limited to implementing the tax rules defined in Parliament by specifying, under the control of the tax judge, their implementation methods and terms.

Consequently, the tax administration interprets and comments the provisions of the law in regulations, which may neither, add nor withdraw anything from the law. Otherwise, the regulation is illegal and is likely to be cancelled by the administrative Supreme Court upon appeal from the citizens. In such situation, the irregular regulation has no binding character to the taxpayers. Conversely, the administration may not bind a taxpayer who has not applied it. This guarantee also applies when the administration takes definitely a stand on a *de facto* situation in connection with a fiscal text. Thus, tax law provides that, where a taxpayer uses a fiscal text according to the interpretation which the administration has released in its regulations and not revoked at the time of the transactions concerned, the tax administration may not order additional payments by maintaining a different interpretation.

Moreover, in accordance with Article 53 of the Constitution, treaties under which State finance is committed or under which laws are modified may only be ratified or approved by law. In this respect, Article 55 of the Constitution provides that duly ratified or approved treaties or agreements prevail over laws once they are published, provided that each agreement or treaty is implemented by the other party. Consequently, domestic tax law applies only subject to the provisions of international treaties or agreements, if any. Furthermore, under Article 54 of the Constitution, when the Constitutional Council declares contrary to the Constitution one or more clauses in an international commitment, such international commitment may be authorized only after amendment of the Constitution.

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This brochure presents the following main French taxes successively:

- Income taxes ;
- Consumption taxes ;
- Property taxes (*impôts sur le patrimoine*) ;
- Local taxes.

It describes only rules provided for by French domestic laws. A more thorough information is available on the Internet site of the Ministry of Finance, Economic Affairs and Industry (<http://www.minefi.gouv.fr> or [www.impots.gouv.fr](http://www.impots.gouv.fr)) which has been set up in particular to allow non-residents to obtain information relating to them.

The administrative doctrine laid down in the official tax bulletins may be obtained from the company ACTIS S.A. situated at 146, rue de la Liberté, 59601 Maubeuge. These official tax bulletins are also available on the site of the Ministry ([http://www.impot.gouv.fr/documentation/accueil\\_reglementation.htm](http://www.impot.gouv.fr/documentation/accueil_reglementation.htm)). This doctrine is regularly integrated in the basic administrative documentation, circulated by *Imprimerie nationale* at the two following addresses : 2, rue Paul-Hervieu 75015 Paris or BP 514, 59505 Douai Cedex. This administrative literature is also available on the site the Government printing office (<http://www.imprimerie-nationale.com>).

Bilateral tax conventions for the avoidance of double taxation between France and other States may depart from these rules which may therefore be implemented only subject to such conventions. A list of double taxation conventions is appended. The text of such conventions may be obtained from *Direction des Journaux Officiels*, 26 rue Desaix, 75727 Paris Cedex 15, France, or ordered through the French Minitel videotex system (3615 code JOEL) or else consulted on the Internet service centre of the Ministry : (<http://www.impots.gouv.fr>) or (<http://www.minefi.gouv.fr>).

## **PART ONE**

### **INCOME TAXES**

France has four categories of income tax:

- Corporation tax;
- Income tax for individuals;
- Social levies;
- Payroll taxes.

<p><b>CHAPTER 1</b></p> <p><b>CORPORATION TAX</b></p>
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Corporation tax is normally an annual tax on the total profits made in France by companies and other corporate bodies. It concerns about one-third of French enterprises. Corporate bodies may be subject to corporation tax at the standard rate for all their activities, or for some of the corporate bodies at reduced rates on their property income. Its **standard rate** is 33 1/3 %, but it is lowered to 15% for the accounting periods opening on or after 2005 for long-term capital gains (1). For enterprises with a turnover of less than € 7 630 000 and the capital of which entirely paid up is continuously held, for at least 75 %, by individuals or a company meeting the same conditions, the taxation rate for the first € 38 120 of profits is lowered to 25 % for the accounting periods opening on or after 1<sup>st</sup> January 2001 and to 15 % for the accounting periods starting on or after 1<sup>st</sup> January 2002.

The 1995 finance amendment act, passed on 4th August 1995, has subject corporate bodies, starting from 1st January 1995, to a surcharge corresponding to 10 % of the corporation tax. Its rate is lowered to 6 % as from 1<sup>st</sup> January 2001, to 3 % starting from 1<sup>st</sup> January 2002 (2001 finance act passed on 30 December 2000) and to 1,5% starting from 1<sup>st</sup> January 2005 (2005 finance act passed on 30 December 2004). The surcharge is definitively repealed for the accounting periods ending on or after 1<sup>st</sup> January 2006.

Moreover, assesseees to corporation tax are liable, in respect of periods ending on or after 1 January 2000, to a social contribution on profits (*contribution sociale sur les bénéfices CSB*) equal to 3.3 % of such tax computed on the profits taxable at the standard rate (33 1/3 %) and the reduced rates less a relief which may not exceed € 763 000 by periods of twelve months. Shall be exempted from this contribution, companies the turnover of which is less than € 7 630 000 and the fully paid-up capital of which is continuously held, for at least 75 %, by individuals or a company meeting the same conditions. The CSB is further developed in Chapter 3 entitled "Social levies".

Lastly, corporate bodies liable to corporation tax are subject to an annual notional taxation (*IFA imposition annuelle forfaitaire*). Such taxation is determined according to a progressive scale adjusting the tax amount depending on the turnover grossed up by the financial proceeds (Article 223 septies of the French tax code. Shall be exempted from the annual notional taxation (*IFA*) the corporate bodies whose turnover grossed up by the financial proceeds is lower than € 76 000.

Consequently, the effective corporation tax rates in 2001 are as from 2002 :

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(1) This treatment applies mainly to capital gains from the alienation of venture holdings and investments and from the net profits from the right to use operating patent licences or patentable inventions. Thus, the taxation rate will be reduced progressively for the holding interests, which will be totally exempted for the accounting periods opening on or after 2007.

\* for small and medium-sized enterprises which meet the above-mentioned conditions to be exempted from the social contribution :

- 15.225 % up to € 38 120 of profits;
- beyond this limit : 33.83% of profits and 15.225% on capital gains falling within the scope of the long-term capital gains regime (the alienation of participation rights and the right to use industrial property rights) ;

\* for the other enterprises, according to their positions with regard to the € 763 000 relief on corporation tax serving as a basis for the social contribution:

- between 33.83% and 34.93% on profits ;
- between 15.225% and 15.72% on long-term capital gains.

The corporation tax at the reduced rate is 24 % or 10 % for property income of non-for-profit organizations alone (associations, congregations).

The revenue from corporation tax amounted in 2004 to € 38.746 billion. In 2005 it is expected to reach € 42.599 billion.

## **I - SCOPE OF CORPORATION TAX**

### **A/ TAXABLE PERSONS**

#### **1 - CORPORATION TAX AT THE STANDARD RATE (ARTICLE 206-1 OF THE FRENCH TAX CODE)**

Certain corporate bodies are compulsorily subject to corporation tax by virtue of their legal form. Thus, regardless of their purpose, the *sociétés anonymes* or *SA* (public limited companies), the *sociétés par actions simplifiées* or *SAS* (simplified joint stock companies), the *sociétés à responsabilité limitée* or *SARL* (limited liability companies), *sociétés en commandite par actions* (limited partnerships with share capital) and, in certain cases, co-operatives are subject to corporation tax.

Corporation tax also applies to other corporate bodies according to the nature of their business. Such is the case with the *sociétés civiles* (civil law or non-trading companies) engaging in industrial or commercial activities and more generally with the other corporate bodies engaged in for-profit operations.

Moreover, *sociétés de personnes* (partnerships), whose profits (and losses) are normally included in the income of the partners in respect of their shares in the profits, may in certain cases elect liability to corporation tax.

## 2 - CORPORATION TAX AT THE REDUCED RATES (ARTICLE 206-5 OF THE FRENCH TAX CODE)

The public communities (public establishments, corporations under local government control, etc) or private communities (associations, foundations, etc) are not subject to the standard-rate corporation tax as long as they carry out non-profit activities. Such communities are subject to corporation tax pursuant to special rules, with respect to certain income derived from their property (income from real property, agricultural profits, certain investment income). The corporation tax rate applicable is then 24 %, or 10 % for certain investment income such as income from bonds. In that case, temporary contributions do not apply. Finally, public utility foundations shall not be subject to corporation tax for incomes derived from their own property.

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The public organisations and the State bodies which enjoy financial autonomy, local and municipality bodies and any other corporate body engaged in lucrative transactions are liable to corporation tax (Article 206-1 of the French tax code).

If the community is not engaged in lucrative transactions, it is subject to corporation tax at the reduced rates provided for in Article 206-5 of the French tax code unless it is exempted therefrom by a specific provision (therefore scientific, teaching and assistance public organisations shall not be subject to corporation tax).

Moreover, Article 207-1-6° provides that shall be exempted from corporation tax, regions and entities formed between regions, *départements* and entities formed between *départements*, municipalities, co-operative entities formed between municipalities and enjoying their own taxation resource, associations of municipalities and mixed associations formed exclusively of public communities or of groupings of such communities, as well as their public services as long as these public services are operated for the purposes of operating or performing a service essential to the satisfaction of collective needs of their inhabitants.

In addition, companies establishing themselves in certain areas of the territory which are experiencing economic and social handicaps (Corsica, areas which are eligible for the premium of regional development, country zones, zones of urban relaunching and in the urban free zones), are temporarily exempted from tax under certain conditions.

An optional regime called group regime or integration regime for tax purposes allows a French parent company to integrate in its taxable profits or losses the profits or losses of its French subsidiaries of which it holds at least 95 % of the capital. Such company pays then the corporation tax for all the companies of the group.

## **B/ RULES OF TERRITORIALITY**

Unlike all other countries of the European Union which apply world-wide taxation to profits, France assesses corporation tax only on profits made by enterprises operated in France, regardless of their nationality. Consequently, profits made by enterprises operated abroad are not subject to corporation tax, while foreign companies pay corporation tax on the profits made by enterprises which they operate in France.

Accordingly, companies taxable in France cannot report losses incurred by enterprises operated abroad.

The term "enterprise operated in France" means an enterprise which carries on business regularly in France, whether as part of an autonomous organisation or, in the absence of an organisation, through representatives without independent professional status, or as part of transactions forming a complete commercial cycle.

By exception to the rule of territoriality, certain French companies are allowed, by approval from the Finance Minister, to apply for the regime of consolidated profits. This regime consists, for the approved companies, in computing their corporation tax by considering, in addition to their own profits or losses or the profits or losses of the group for tax purposes which they have formed, the profits or losses of all their direct operating concerns located abroad, as well as the share accruing to them in the profits or losses of their French subsidiaries (or of the group for tax purposes they have formed) and foreign subsidiaries of which they hold at least 50% of the voting rights.

## **II - DETERMINATION OF TAXABLE PROFIT**

### **A/ GENERAL RULES FOR PROFIT DETERMINATION**

Like enterprises subject to income tax in the category of business profits (*bénéfices industriels et commerciaux*), and normally unlike non-commercial enterprises subject to income tax in the category of professional profits (*bénéfices non commerciaux*), companies subject to corporation tax must base their taxable profit on all receivables and debts existing at the end of an accounting period.

Profits subject to corporation tax are determined according to the same general rules as those of enterprises subject to income tax in the category of business profits, except for the territorial profit taxation rule which applies only to enterprises subject to corporation tax.

Profits subject to corporation tax are determined by the earnings from transactions of any kind made by the enterprise, including in particular transfers of assets (*cessions d'éléments d'actifs*). Thus, the assessment basis consists of the difference between the net assets of the closing balance and the net assets of the opening balance.

Normally, the taxable profits correspond to the accounting result. However, it may be adjusted as necessary to take into consideration tax rules departing from accounting rules.

### **B/ COMPUTATION OF TAXABLE PROFIT**

The taxable profit is equal to the difference between the gross operating profit and incidental earnings, on the one hand, and deductible costs and expenses, on the other hand.

Pursuant to the accounting rules, the gross operating profit consists of the difference between:

- sales and services during the accounting period and the inventory existing at the end of such period; and
- the cost price of the sales and services and the inventory at the start of the period.

In addition to this gross operating profit, all incidental earnings or profits made by an enterprise shall normally be taxed, in particular income from rental of real property, interest on receivables, deposits and guarantees and income from transferable securities.

Exceptionally, French parent companies may exclude from their taxable earnings, except a share of costs and expenses equal to 5 % of the total amount of the proceeds from the shareholding, including tax credits (2) the dividends distributed by their French or foreign subsidiaries in which they hold at least 5 % of the share capital.

Costs and expenses may be deducted under certain conditions:

- they must have been incurred in the direct interest of the business or be connected with the normal management of the enterprise ;
- they must correspond to an actual expense and be sufficiently substantiated;
- they must be included in the expenses of the period during which they were incurred and reflect a reduction of the enterprise's net assets ;

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(2) Reintegration applicable for determining the profits and losses of accounting periods ended as of 31 December 1999 (2.52 % as of 31 December 1998).

- their deductibility should not be questioned by a special provision of law.

Certain expenses are not deductible when they do not correspond to the purpose of the enterprise, such as expenses connected with hunting or fishing, expenses incurred in making use of yachts, etc.

Similarly, long-term capital gains are segregated from the accounting income and taxed separately at the reduced rate of 19 % increased by the surcharges mentioned in page 6.

Only capital gains from the alienation of holding interests held for at least 2 years, parts in venture-capital trusts (*fonds communs de placements à risque*) or in venture capital companies held for at least 5 years are referred to by this regime as well as the net profit from the concession of licences of operating a patent, a patentable invention or a manufacturing process. The other capital gains are generally taxed as ordinary profits at the standard rate of corporation tax (see p 6) except for the exemption, under certain conditions, of capital gains from the alienation of a complete branch of activity, initiated by law 9 August 2004 (see p 23 and 24). As to the regime applying to enterprises falling under individual income taxation, long-term capital gains (holding period  $\geq 2$  years) are taxed at the rate of 16 % + 10 % (social levies). Short-term capital gains are subject to the progressive scale of individual income taxation (see page 30).

The consequence of these processes may incurr :

- either a positive result, i.e. the profit, on which corporation tax is computed;
- or a negative result, i.e. the loss, which may be set off against the profits of the accounting periods following the one in which the loss was incurred or, optionally and under certain conditions, against the profits of the previous three periods (carry-back), and generate, in this case, a tax credit chargeable to the tax due on the profits of the following five years and refundable at the end of this period. Since January 1, 2004, the losses may be set off against profits of the following years without time limit for the companies subject to corporation tax.

### **III - ASSESSMENT AND PAYMENT OF TAX**

Companies compute and pay tax spontaneously according to a system of instalments which are settled when the annual results are finally issued.

Dividend tax credits ("*avoir fiscaux*") or other tax credits pertaining to income from transferable securities included in the assessment basis may be set off against such gross tax.

Income from foreign transferable securities is included in the assessment basis up to its net amount and does not entitle to any tax credit.

Concerning income from French transferable securities, the French regime which was founded on the granting of a dividend tax credit to all shareholders, mitigates substantially the aggregate taxation of dividends which results from the taxation of both the company which pays the dividends and the beneficiary of such dividends.

Dividends from French sources received by French companies entitled to the granting of a dividend tax credit equal to 50 % of the net dividend in the case of companies eligible to the parent companies regime and to 15 % for the other companies (3).

Companies are allowed to distribute dividends deducted from profits not subject to corporation tax or subject to corporation tax at a lower rate than the standard rate (e.g. long-term capital gains). In this case, the dividend tax credit which normally accompanied such distributions would not cancel out or mitigate cumulative taxation of dividends but, on the contrary, would permit accumulation of exemptions.

Thus, these distributions resulted in an equalization tax (*précompte*) which corresponded to the difference between the tax credit deemed to be equal to 50 % of the dividends and the actually paid corporation tax.

2004 Finance Law removes the use of the tax credit (*avoir fiscal*). Concerning legal persons, this reform shall apply to dividend tax credit to be used in 2005.

In future, dividends received by legal persons subject to corporation tax and which are not received under the parent companies regime, will be included in the assessment basis up to their net amount.

Correlatively, the equalization tax (*précompte*) is removed concerning dividend paid as from January 1, 2005.

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(3) Since 1999, the rate of the dividend tax credit which may be used by companies which are not eligible to parent company regime has been regularly reduced. It has been successively reduced from 50 % to 45 % for dividend tax credits used in 1999, to 40 % for those used in 2000, to 25 % for those used in 2001, 15 % for tax credits used in 2002 and 10 % for those to be used in 2003 .

<p style="text-align: center;"><b>CHAPTER 2</b></p> <p style="text-align: center;"><b>INCOME TAX</b></p>
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Income tax is normally an overall tax imposed on the total income of an individual during a given year. Barring exceptions, all income, regardless of its origin, is aggregated to determine an overall net income to which a single tax scale applies.

This scale has progressive income brackets. However, the computation method of income tax goes together with many provisions allowing for highly personalised taxation. Moreover, certain types of income and capital gains derived from transferable securities are subject to proportional tax levies.

Income tax is assessed once a year on the taxable income which a tax household derives during a given calendar year and declares the following year.

In 2004, the revenue from individual income tax amounted to € 53,45 billion

In 2004, it is expected to reach € 52,029 billion.

## **I – TAXABLE INCOME**

The following seven categories (4) of income are subject to income tax:

- Business profits (*bénéfices industriels et commerciaux*);
- Professional profits (*bénéfices non commerciaux*);
- Agricultural profits;
- Real property income (*revenus fonciers*);
- Wages and salaries, pensions and annuities ;
- Income from transferable securities (*revenus mobiliers*);
- Capital gains.

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(4) Another eighth category is added however, composed of the remuneration of certain company directors (in particular majority managers of *SARL* (limited liability companies), the taxation rules of which are similar to those of wages and salaries. In this respect, this category is, for the purpose of this paper, put together with wages and salaries, pensions, and annuities.

## **II - SCOPE OF INCOME TAX**

### **A/ TAXABLE PERSONS**

In accordance with the provisions of Article 4 A of the French tax code, individuals are taxed on their total income of French or foreign sources insofar as they are domiciled in France. Persons not domiciled in France are taxed only on income from French sources.

#### **1 - DEFINITION OF RESIDENCE FOR TAX PURPOSES - RULE OF TAXATION PER HOUSEHOLD**

In accordance with the provisions of Article 4 B of the French tax code, the following persons are deemed to be residents of France for tax purposes :

- any person who has his or her home or main abode in France; or
- any person who carries on a professional activity in France, whether as an employee or not, unless he or she proves that this activity is carried on therein incidentally; or
- any person whose centre of economic interest lies in France.

State employees who perform their duties, or are representatives in a foreign State and who are not subject therein to a personal tax on their overall income are deemed to have their residence for tax purposes in France.

Tax is assessed at the level of the "tax household", i.e. the family entity consisting of a single person, two partners having concluded a solidarity civil pact or spouses - regardless of their marriage settlement - and their children or other dependants. In other words, the assessment basis is generally the total income of the different members of a tax household.

#### **2 - TAX TREATMENT OF RESIDENTS OF FRANCE**

Regardless of their nationality, persons resident for tax purposes in France are taxed on their worldwide income.

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### 3 - TAX TREATMENT OF NON RESIDENTS OF FRANCE

Regardless of their nationality, persons not resident in France are taxed in France on their income from French sources only. In accordance with the provisions of Article 164 B of the French tax code, the following categories alone are considered as income from French sources:

- income from immovable property situated in France or from rights connected with such property ;
- income from French movable property and any other stocks and shares invested in France ;
- income from concerns (*exploitations*) situated in France ;
- income from professional activities, whether employment or not, carried on in France or from for-profit transactions carried out in France;
- capital gains on the transfer, for valuable consideration, of property or rights of any kind and profits derived from transactions, in particular those carried out by property dealers when such profits are connected with businesses (*fonds de commerce*) operated in France as well as immovable property situated in France, immovable property rights connected therewith or shares in unlisted companies whose assets mainly consist of such property and rights ;
- capital gains on the transfer of corporate rights pertaining to companies having their head offices in France;
- amounts, including salaries, in consideration of artistic or athletic performances supplied or used in France.

The following elements are also considered income from French sources, for the purposes of Article 164 B mentioned above, where the payer of such income has his or her domicile for tax purposes in France or is established therein :

- pensions and annuities;
- fees received by inventors or as copyrights as well as any income derived from patent and similar rights ;
- amounts paid in consideration of any services provided or used in France.

For the purposes of Article 164 C of the French tax code, the income tax paid by non-residents of France is assessed on a notional income (*revenu forfaitaire*) equal to three times the real rental value of home(s) available to them in France when their income from French sources is less than the notional assessment basis (to make the comparison, this income includes income subject to a withholding tax or a levy). However, the notional assessment does not apply, during the year in which the residence for tax purposes is transferred outside France and the next two years, to taxpayers of French nationality who can prove that such transfer is justified by professional requirements and that their domicile for tax purposes was continuously established in France during the four years preceding the year of transfer.

Moreover, the notional assessment does not apply to:

- persons of French or foreign nationality resident in a State or territory which has signed a convention with France for the avoidance of double taxation, even if such convention does not contain any provision in this respect;
- persons of French nationality, when they can prove that they are subject, in the country or territory where they have their residence for tax purposes, to personal taxation, on their total income, which is at least equal to two-thirds of the tax they would have had to bear in France on the same assessment basis ;
- nationals of countries which have signed a reciprocal agreement with France and satisfy the condition laid out in the foregoing subparagraph.

Taxpayers domiciled outside France who receive income from French sources or have available to them one or more homes in France must normally file a tax return.

## **B/ EXEMPT PERSONS**

Exemptions are based on social grounds. For instance, taxpayers whose income after deducting professional expenses does not exceed € 7 640 are exempt from income tax. For taxpayers of over 65, the limit is set at € 8 340 (these amounts apply to income derived in 2004<sup>(5)</sup>; they are updated annually).

However, diplomats and consular officers of foreign nationality are exempt from income tax with respect to their official remuneration and their income from foreign sources under the Conventions of Vienna on Diplomatic and Consular Relations of 1961 and 1963.

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(5) These amounts are increased each year in the same proportion as the upper limit of the first bracket of the individual income tax (Article 5.2° bis of the French tax code).

### **III - RULES GOVERNING TAXATION OF INCOME RECEIVED BY INDIVIDUALS**

#### **A/ PERSONS DOMICILED IN FRANCE**

##### **1 - BUSINESS PROFITS**

The category of business profits includes profits from industrial or commercial activities or crafts (*artisanat*), but also includes certain activities taxed in that category by law (e.g. profits made by property dealers or by lessors of non professional furnished premises).

The rules used to determine the assessment basis are normally identical to those applicable to corporation tax. However, the principle of territoriality, as applied to corporation tax, does not apply to profits of enterprises subject to income tax.

The taxable profit is based on the accounting profit. Thus, it corresponds to the earnings derived from all transactions carried out by the enterprise, subject to other treatments provided for by tax laws.

However, small enterprises are entitled to a simplified tax treatment, enabling them to relieve their accounting requirements; normally, very small enterprises are taxed on a notional profit equal to a percentage of their turnover (28 % for sales and 48 % for service supplies) unless they opt for an actual assessment basis taxation.

##### **2 - PROFESSIONAL PROFITS**

In addition to the profits of the liberal professions and offices whose holders have not the capacity of traders, professional profits include profits from all occupations, for-profit concerns and sources of profits not falling under any other category of income or profit (e.g. regular stock exchange trading, copyrights, fees received by inventors, etc.).

Taxpayers subject to actual assessment basis taxation, known as the "*déclaration contrôlée*" (controlled return) the annual income being over € 27 000 (excluding VAT), are subject to certain accounting requirements. They have to keep a ledger itemising their professional receipts and expenses. They need, in addition, to keep a record of fixed assets and depreciation.

Unlike business profits and profits subject to corporation tax, the taxable professional income (*bénéfice non commercial*) is, normally, equal to the difference between the receipts effectively received and the expenses (including depreciation) necessary to the carrying out of the profession since they are paid and justified.

Besides, persons who are taxed on their professional profits under the notional assessment system called "micro professional profits" (annual receipts  $\leq$  € 27000 excluding VAT) must only keep an accounting record of their receipts. The taxable profit is then equal to 63 % of the receipts.

### 3 - AGRICULTURAL PROFITS

This category normally includes all income from farming earned by farmers, tenants, sharecroppers and landowners. It also includes profits from cattle breeding. The profits of small farms are taxed on a collective notional basis (*forfait collectif*).

### 4 - REAL PROPERTY INCOME

This category includes income from urban or rural real property, whether improved or not, situated in France or abroad.

However, income of this kind connected with an industrial, commercial, small-trading, agricultural or non-commercial activity is included in the profits derived from such activity according to its own rules.

Taxable real property income is equal to the difference between the amount of receipts and the total expenses relating to the property, some of which are mandatorily assessed on a notional basis. Taxpayers with low real property income  $\leq$  € 15 000 per year enjoy a simplified taxation regime ("micro foncier") The taxable real property income is determined after deducting a 40 % relief representing expenses.

They may also opt for determining their taxable real property income pursuant an actual mode, identical to the mode used by those who receive more than € 15 000. Such income is then equal to the difference between the amount of receipts and the total expenses of the property some of which are statutorily determined notionally.

Besides, the taxable amount of real property income may be reduced, under certain conditions strictly defined, by the depreciation of the acquisition cost of new renting houses and the overvaluation of contractual expenses.

## 5 – WAGES AND SALARIES, PENSIONS AND ANNUITIES

This category includes, on the one hand, wages and salaries, allowances and emoluments received in consideration of an employment, including the remuneration of the managers (Chairmen and Chief Executive Officers and members of boards of directors) of *sociétés anonymes* (SA) and the managing directors of *sociétés à responsabilité limitée* (SARL), Members of the French Parliament and Members of the European Parliament's salaries, and on the beneficiaries' option, the local councillors' salaries and, on the other hand, pensions, retirement benefits and annuities.

The net amount of the taxable income in that category is determined by deducting in particular from the gross amount paid the mandatory social contributions and the expenses inherent to duty or employment when the employee is working.

Barring exceptions, gross earned income includes all sums and benefits in kind available to the taxpayer. Expenses incurred to acquire the earned income are normally taken into account notionally (a 10 % deduction capped to a certain amount raised each year<sup>(6)</sup> ). However, taxpayers may opt for the deduction of their actual professional expenses. Pensions and annuities without consideration are eligible to a special 10 % relief for their real and justificate amount capped to a certain amount, raised each year, at the level of the tax household <sup>(7)</sup>. Moreover, a 20 % relief also capped <sup>(8)</sup> to a certain amount raised each year is applied to all earned income, salaries pensions and annuities without consideration, declared by each member of the tax household.

Life annuities with consideration are granted a notional relief the progressive rate – from 30 % to 70 % - of which is based on the age of the life annuitant – from less than 50 years old to at least 70 years old-at the time the annuity starts.

## 6 - INCOME FROM TRANSFERABLE SECURITIES

This category covers the proceeds from both variable-interest securities and fixed-interest securities. It includes, on the one hand, income from shares and similar income and, on the other hand, income from bonds and other corporate bonds, income from debt-claims, deposits, guarantees, current accounts, Treasury bonds, loan notes. However, this category does not include income which is part of the income of an industrial, commercial, small trading, agricultural or non-commercial enterprise.

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(6) € 12 682 for 2004 income.

(7) € 3 325 for 2004 income.

(8) € 23 580 for 2004 income.

The costs and expenses pertaining to income from transferable securities, except those related to income from debt-claims, are deductible at their actual amount insofar as they are incurred to acquire or maintain the taxable income. On the other hand, expenses which have the nature of capital expenditure or use of income, are not deductible. For example, interest on loans contracted to acquire transferable securities may not be deducted from income derived from such securities.

For the record, individuals domiciled in France are normally taxed on income from transferable securities of French and foreign sources, unlike individuals whose domicile for tax purposes is not situated in France who are taxed only on income from French sources.

#### **6-1) Proceeds from variable-interest securities (dividends and comparable)**

This income is normally included in the income tax assessment basis and therefore subject to a progressive tax scale.

In order to avoid economic double taxation, distributions paid by French or Foreign companies and received as from January 1, 2005 by individuals are taken into account, for the computation of the income tax, for 50% of their gross value.

An allowance of € 1.220 for a single person or of € 2.440 for a couple is then applied to this “half base”.

Moreover, a tax credit equal to 50% of the amount of the received distribution, capped to € 115 or € 230 according to the taxpayer’s family status is charged to the tax due or is reimbursed.

Dividends paid by French companies since 31<sup>th</sup> December 2004 entitled their beneficiaries residents of France to a dividend tax credit equal to 50 % of the net dividends received by individuals.

Income from transferable securities issued outside France sources is included at net value in the assessment basis, i.e. after deduction of tax borne abroad.

As regards the application of international tax treaty, the taxpayer can benefit to a credit for the tax levied in the state of source allowed on the french income tax. This tax credit is then included in the income tax assessment basis.

#### **6-2) Proceeds from fixed-interest securities (interest and comparable)**

This income is normally included in the income tax assessment basis and therefore subject to a progressive tax scale.

However, certain types of income are expressly exempt, in particular for social reasons (e.g. capitalised interest on the first savings book or on popular savings books).

Moreover, income from french fixed-interest securities may not be subject to progressive taxation insofar as it is optionnaly liable to a proportional notional levy discharging income tax liability, whether mandatorily (e.g. proceeds received by non-residents) or optionally (e.g. interest from bonds and bank promissory notes). The option is binding and must be exercised, even only on a part of the income in question, at the latest when the income is received. The levy is applied by the paying establishment when the income is received. Its rates vary according to the type of investment, but in general it is equal to 16 % levy (without social levies at the overall 11 % rate).

As from January 1, 2005, the discharging income tax liability is extended to the european's proceeds from fixed-interest securities under certain conditions as follows:

- when the paying establishment is issued inside France, conditions and rules for the levy are the same as for french income;
- when the paying establishment is issued outside France but inside one of the member of the European Union or inside another country part of the Agreement on the European economic space except for Liechtenstein, the French resident can opt for a discharging income tax liability. The resident can opt to the registration of income tax return or to the payment of the levy by the paying establishment or by the tax payer. Income tax return and payment must be done 15 days after the payment of the income.

This possibility is also available for income from certain life-insurance products issued from inside EU.

## 7 - CAPITAL GAINS

Capital gains may be earned by individuals managing their private assets or related to the carrying of a business activity.

### **7-1) Treatment of capital gains earned by individuals**

Taxation of capital gains earned by individuals applies in particular to capital gains from real property, as well as capital gains from the alienation of transferable securities or corporate rights, for valuable consideration.

Capital gains derived from a transfer of a property without valuable consideration are not taxed as such. However, they are included in the assessment basis for *droits de mutation à titre gratuit* or capital transfer duty (see property tax).

#### 7-1-1) Capital gains from real property

As from January 1, 2004, capital gains derived from the transfer of real property, rights related to real property or similar rights by individuals managing their private assets are subjected to individual income tax at a proportional rate.

The notary is in charged of the report of capital gains and of payment of the tax.

Capital gains derived from the transfer of rights related to companies which are not subject to corporation tax and which their assets are consisting mainly of immovable property may be taxed under the same treatment.

The taxable event is the transfer of the real property. The capital gain is generally subjected to individual income tax at the alienation, whatever are the conditions of payment.

The taxation is based to a 16% proportional rate (not including social levies at the overall 11% rate).

Certain capital gains are expressly exempt, such as those derived (under certain conditions) from the sale of the taxpayer's main home (*résidence principale*) or the sale of a building which price is not exceed € 15 000.

The assessment basis is equal to the difference between the price of transfer and the acquisition price (or, in case of acquisition for free, the value of the property at that date). The gross capital gain qualify for a tax relief of 10% for every year the property is held after the s fifth year, which means that they are tax exempt when sold after having been held for at least 15 years.

Then a fixed tax relief of € 1 000 is allowanced capital gains.

For the transfer of real property, capital losses can not allocated on capital gains or on total income. Capital losses can allocated capital gains when the real property was bought by portions.

For the capital gains from the transfer of real property, tax return and payment must be filed at the Registration (*Conservations des hypothèques*) into 2 months after the notary's act and before the land registration. For the capital gains from the transfer of rights related to companies which their assets are consisting mainly of immovable property, the tax return must be filed at the tax collection (*Recette des impôts*) into one month after the notary's act.

When the capital gain is exempted (for exemple, the sale of the taxpayer's main home or the sale of a building having been held for at least 15 years) or when there are capital losses, there is no report.

With most of international tax treaty signed by France, gains from the alienation of immovable property may be taxed, exclusively or not, in the State of situs. Without any tax treaty, capital gains from a french resident must be taxed in France, even if it is an abroad building.

#### 7-1-2) Capital gains from transferable securities or corporate rights

Capital gains derived from transferable securities and corporate rights by persons domiciled in France for tax purposes are taxed at a 16 % proportional rate (not including social levies at the overall 11 % rate) when the annual amount of transfer of such securities exceeds a threshold of transfer fixed at € 15.000 as from 1 January 2003 by tax household.

As from 1 January 2002, losses may be set off against the capital gains of a similar nature earned during the same year or during the ten following years.

## **7-2) Treatment of professional capital gains**

Professional capital gains are exceptional profits made when fixed assets are transferred by industrial, commercial, small trading, agricultural enterprises or non-commercial enterprises.

A distinction is made between long-term capital gains (or losses) and short-term capital gains (or losses). Short-term capital gains (or losses) are generally included in the assessment basis applied to taxable profit subject to progressive individual income tax, whereas net long-term capital gains are entitled a lower tax rate of 26 % (including social levies).

The distinction between treatment of long-term and short-term capital gains is based on the following rules:

- Capital gains (or losses) with respect to non-depreciable assets are deemed short-term when transferred within two years from being entered as assets. In all other cases, capital gains are considered long-term ;
- Capital gains (or losses) with respect to the transfer of depreciable assets are normally deemed to be short-term and therefore taxed under general law provisions, regardless of the time during which such assets have been held. However, if the asset has been held for over 2 years, the part of the capital gains which exceeds depreciation is deemed to be long-term and therefore taxed at the reduced rate of 26 %.

Moreover, the law n°2004-804 of August 9, 2004, for the increase of investment and consuming, introduces, under certain conditions, exemption for professional, capital gains from an individual when he sells a complete activity's branch. This exemption is also for companies on corporate tax, under certain conditions specifically about detention's capital by individual.

Lastly, capital gains made by small enterprises are, totally or partially, tax-exempt where the professional activity has been carried on for over 5 years and that the turnover does not exceed certain thresholds.

## **B/ PERSONS NOT DOMICILED IN FRANCE**

Normally, such persons must report each year their total income when they receive income from French sources or have available to them one or more homes in France. The rules applicable to income received by persons domiciled in France normally apply also to income received by persons not domiciled therein.

However, special tax rules have been implemented.

Certain types of income from French sources received by persons not domiciled in France are subject to a withholding tax. In certain cases, such withholding taxes may be a levy discharging income tax liability, thus avoiding progressive taxation of the income concerned.

Some income is expressly tax-exempt insofar as it is received by non-residents.

## 1 - INCOME SUBJECT TO WITHHOLDING TAXES

### \* Professional profits (*bénéfices non commerciaux*)

Profits derived from non-commercial activities carried on in France by persons not domiciled in France are taxed according to the rules laid down for profits of the same kind received by persons domiciled in France.

However, non-commercial or similar income paid to persons (or companies) without a permanent business facility in France is subject to a withholding tax of 33 1/3 %.

Generally, this rate also applies to remuneration paid for services of any kind actually supplied or used within France.

However, a 15 % rate is applied to amounts, including wages, paid for artistic or athletic performances in France.

The withholding on certain types of non-employment income is credited against the income tax (or corporation tax) payable by the beneficiary with respect to income from French sources. The withholding is not refundable.

### \* Wages, salaries, pensions and annuities

When paid to persons not domiciled in France, salaries, pensions and annuities are subject to a withholding tax computed as follows:

- Annual income under € 10.350 is not subject to withholding;
- Income between € 10.350 and € 30 030 is subject to a 15 % withholding tax;
- Above € 30 030 the rate is 25 %.

These amounts, applicable to income received in 2005, are revised each year, as the limits of the income brackets of the progressive tax scale.

Such withholding is normally set off against final tax chargeable.

Thus, withholding on wages, salaries, pensions and life annuities discharges income tax liability for the taxable fraction (taxed at 15 %) which does not exceed € 30 030 for 2005. However, this measure is specific for French nationals who do not have their domicile for tax purposes in France, as well as nationals of countries having signed with France a convention which includes a non-discrimination clause. This fraction is not taken into account for the computation of income tax and the corresponding withholding cannot be set off.

However, the foregoing provisions do not restrict the taxpayer's obligation to file a return to the surplus alone : all salaries, pensions or annuities from French sources available to him during the year of taxation, as well as the total amount of the withholding tax on such income, must be reported on the annual tax return.

2 – OTHER INCOME FROM FRENCH SOURCES SUBJECT TO  
LEVIES DISCHARGING INCOME TAX LIABILITY OR TO A  
WITHOLDING TAX

\* Investment income

. Proceeds from variable-interest securities

Dividends and similar income distributed by French companies to individuals not residents of France are subject to a 25 % levy discharging income tax liability.

. Proceeds from fixed-interest securities

When it is paid to a non-resident, such income is subject obligatory to a 16 % notional levy (the rate varies according to the date of issue of the debt-note or the date of payment of income and sometimes of the life of the financial instrument and whether subscription was registered by name or not).

However, there is some exemptions for interest payed to a non-resident, for exemple, as interest on bonds issued since 1st October 1984 when the owner prove that, for tax purposes, its domicile or its head office is situated outside France. Since 1998, bonds issued in euros are considered as issued outside France : the beneficiaries do not have to justify any more their non-resident status.

\* Capital gains from real property

With most of the international tax treaty signed by France, gains from the alienation of immovable property may be taxed, exclusively or not, in the State of situs. When the building is locating in France, capital gain from the alienation by an individual situated outside France may be taxed in France.

Subject to international tax treaties, occasional capital gains of a non-resident are subject :

- to a 16% levy, when the owner is an individual or an individual associate of a company which benefits are taxed in the hand of each associate, resident of a state of the European economic space except Liechtenstein, or

- to a levy of a third (33,1/3) in others cases.

\* Profits from real property

Certain profits from real property made by individuals domiciled outside France are subject to a 50 % levy discharging income tax liability.

These are:

- profits made by property dealers;
- profits made by persons on transfer of real property they have built or have them built and of the real property rights pertaining thereto;
- profits made by persons who sell land divided in plots intended to be developed.

\* Capital gains from transfer of corporate rights derived from substantial interests

Like persons domiciled in France for tax purposes, individuals not domiciled in France and corporate bodies having their head office outside France are taxed in respect of capital gains from the transfer of all or part of corporate rights held in companies liable to corporation tax if such rights have represented over 25 % of corporate profits at any time during the last five years.

The 16 % levy fully discharges income tax payable by persons not domiciled in France in respect of such capital gains.

3 - TAX-EXEMPTION OF CERTAIN CATEGORIES OF INCOME  
FROM FRENCH SOURCES RECEIVED BY PERSONS NOT  
DOMICILED IN FRANCE

Net capital gains derived from transferable securities, whether directly or through an interposed person, by persons not domiciled in France for tax purposes are exempt from income tax if not derived from substantial interests (see 2. above). This provision also applies to corporate bodies the head office of which is located outside France.

Moreover, interest from deposits, whether in foreign currencies or French Francs, made by non-residents in banks established in France as well as on interest from most bonds subscribed by non residents are exempt (see 2. above).

## **IV - DETERMINATION OF OVERALL INCOME**

Normally, taxable income is obtained by adding all the different categories of net income available to a tax household during the year of taxation.

\* \*

The taxable income is an overall income

This means that it includes all net income received by the members of a tax household in respect of one or more income categories.

Similarly losses in certain income categories are normally set off against other types of income and the overall loss may be carried forward to the overall income of the following five years. This time limit is raised to six years as from the taxation of income received in 2004. There are some exceptions to this principle.

For example, agricultural losses cannot be set off where other income exceeds € 53 360. In that case, they can only be carried forward to the agricultural profits of the five following years (or of the six following years as from the taxation of income received in 2004). Real property losses cannot be set off against overall income except for the fraction resulting from expenses other than loan interest and

up to a limit of € 10 700. The portion over € 10 700 or which is from loan interest can be set off against the real property income of the ten following years. However, the following types of losses may be set off without limitation against income : real property losses caused by major repairs made by certain bare owners (*nu-propriétaires*), losses incurred in respect of historic buildings and losses resulting from certain expenses incurred as part of property restoration operations carried on in protected sectors as well as losses related to redevelopment of buildings situated in urban free zones.

Similarly, losses from the carrying on of non-professional activities treated as business or professional profits for tax purposes shall not be set off against the overall net income but against the profits alone from activities of the same kind carried on under the same conditions, and made during the five following years (or during the six following years as from the taxation of income received in 2004).

Under the same conditions as taxpayers domiciled in France, taxpayers not domiciled in France may set off losses of the same origin against profits or income from French sources, provided that such losses are from French sources. This possibility is not available to taxpayers domiciled outside France whose taxable income is notionally based on 3 times the actual rental value of their home(s) in France.

#### Taxable income is an available annual income

A tax household is normally taxed on income derived, and made available, during the year (or during the accounting period if derived from a non-employment professional activity).

However, exceptional or deferred income may under certain conditions be taxed according to the income splitting system ("*quotient*"), thus alleviating the impact of progressive taxation.

#### Taxable income is a net income

For economic or social reasons, certain personal expenses of the tax household are treated for tax purposes either as expenses which may be deducted from overall income or as tax reductions in the form of a percentage of an upper limit of the expenditure.

Among expenses taken into account at the overall income level, alimonies-under a court decision or as a mandatory alimony-may be deducted (normally the actual amount). Other expenses, exhaustively listed, may be deducted up to an amount most often capped. For example, but only as from the taxation of income received in 2004, a tax incentive to the constitution of a saving retirement plan in addition to the sharing out pension plans was implemented through a deduction of the net overall income.

Moreover, no expenses relating to overall income are deducted from the taxable income of taxpayers not domiciled in France.

Furthermore, such taxpayers are not entitled to tax reductions or tax credits which may be granted to taxpayers domiciled in France.

## V - COMPUTATION OF TAX

The authorities compute income tax on the basis of the amounts declared by the taxpayer who must file a tax return reporting total income received the previous year by the tax household.

Moreover, beneficiaries of income derived from professional activities (business profits, professional profits, agricultural profits), income from transferable securities and income from real property, and persons having derived capital gains from real property, must append special returns to the overall return. The computation of income tax takes into account the taxpayer's personal situation.

Such personalization of tax is particularly expressed in the use of the "*quotient familial*" technique (income splitting system) on the one hand and in the attribution of tax reductions or tax credits to taxpayers in respect of some of their personal expenses on the other hand.

### Income splitting system (*technique du quotient familial*)

It is used to take into consideration the dependants and to lessen the impact of tax progressiveness accordingly by applying the progressive rate to partial income : taxable income per part.

The method consists in dividing the taxable income of the tax household in a number of equal parts (e.g. one part for a single person, two parts for a married couple, an additional half part for each of the first two dependent children and an additional part for each dependent child thereafter).

Next, the progressive tax scale is applied to the taxable income per part (split income) thus obtained. The scale, corresponding to one part, is the following :

Portion of taxable income (one part)	Rate (%)
Up to € 4 334 .....	0
From € 4 335 to € 8 524 .....	6.83
From € 8 525 to € 15 004 .....	19.14
From € 15 005 to € 24 294 .....	28.26
From € 24 295 to € 39 529 .....	37.38
From € 39 530 to € 48 747 .....	42.62
Over € 48 748 .....	48.09

Lastly, this partial tax is multiplied by the number of parts for determining the payable gross tax.

However, at an equal number of dependants, the tax benefit obtained by application of the income splitting system increases with the amount of taxable income. Accordingly, this benefit is capped for the income received in 2004, € 2 121 per half share after the first 2 (as in the case of a married couple with one or more dependent children).

### Computation of net tax

After determining gross tax, any tax reductions and tax credits for which the taxpayer may be eligible are granted, where appropriate.

Certain personal expenses paid by the taxpayer whom the lawmaker wishes to support, particularly for social or economic reasons open right to a tax reduction or a tax credit.

The amount of the tax reduction is equal to a given percentage of the expense, up to a limit. It remains thus independent from the amount of income of the taxpayer concerned. Moreover, the excess part, on the tax calculated after deducting tax reductions, of the tax benefit corresponding to the tax credit may be refunded. Thus, the non-taxable taxpayers benefit of these tax incentives.

Currently, the General Tax Code lists 15 tax reductions for the 2004 income, concerning for instance, donations to charities, costs of domestic work, subscription to the capital of unlisted companies.

Deductible tax credits correspond for example to expenses for investment work in the main home, costs of young child-minding, cost for buying or renting “clean” cars, or to dividend tax credits (*avoirs fiscaux*) pertaining to dividends distributed by French companies. They may also concern withholding taxes on income from movable property from countries having signed a tax convention with France which provides under certain conditions and within certain limits for the crediting of tax paid abroad in respect of such income.

Lastly, as an incentive to go back to work or maintain in work, individuals domiciled in France for tax purposes may benefit, under certain requirements, the bonus for employment (*prime pour l'emploi*). This bonus is allowed against the amount of income tax assessed after having deducted, as the case may be, the tax credits mentioned above. Where the amount of the bonus is higher than the income tax payable, the excess part which can not be set off against the income tax is refunded, as the case may be, by the State to the individual.

Since April 1, 2004, people who could justify of an employment during at least six months immediately after an unemployed period of the same time, in the course of which they were registered as unemployed people or beneficiaries of a social minimum (RMI for example), can ask to receive a partial lump sum of the bonus for employment (PPE) fixed to € 205.

Several months after the taxpayer has filed his return, a bill of net tax in the form of a tax notice (*avis d'imposition*) is sent to him or her, indicating also the date of recovery proceedings (*date de mise en recouvrement*). Normally, tax is paid in the form of two instalments followed by payment of the balance. Taxpayers may opt for monthly payment of tax. Payment is made in the form of monthly orders (equal to one-tenth of the tax paid the previous year) from January to October, and the balance, if any, is paid during the last month or two.

In addition to income tax, income received by persons domiciled in France is subject to the complementary levies enacted in the last several years in order to complement the financing of the social security system.

<p style="text-align: center;"><b>CHAPTER 3</b></p> <p style="text-align: center;"><b>SOCIAL LEVIES</b></p>
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Since its inception in 1945, the social security system has been financed mostly from contributions levied on earned income.

So far, France has differed from some of its European partners which fund social expenditure by taxation.

However, in order to address the problem of financing social security, the spectrum of its revenues has been enlarged by enacting supplementary levies in the form of taxes, among which the *contribution sociale généralisée* (CSG, widespread social security contribution) is the main example.

Similarly, ordinance of 24 January 1996 on the reimbursement of social debt introduced a temporary contribution for the reimbursement of the social security debt at a 0.5 % rate.

Finally, for accounting periods ending as of 1 January 2000, persons liable to corporation tax are subject to a social contribution equal to 3.3 % of the corporation tax computed on their profits taxable at the rates of 33.1/3 % and 19 % (15% for the accounting period opening on or after 2005). Such contribution is intended to feed the financing fund of the reform of employers' social security contributions.

## **I - WIDESPREAD SOCIAL SECURITY CONTRIBUTION (CSG)**

Introduced by the finance act for 1991, this levy applies only to individuals domiciled for tax purposes in France and, concerning more particularly earned income and substitution income, in all cases, as long as he or she contributes to a French statutory State health scheme (ordinance n° 2001-377 of 2 May 2001).

Initially set at 1.1 %, the rate of this tax levy was raised to 2.4 % on 1 July 1993.

From 1 January 1997, the rate of the CSG was raised to 3.4 %, the additional point being deductible from the tax base subject to the progressive income tax.

In order to ensure the balance among the social security schemes and a fairer contribution of all income to the financing of the welfare and to strike a balance between the taxation of investment income and the taxation of earned income, the rate of the CSG was raised by 4.1 points as of 1 January 1997 for property income collected by individual assessment and as of 1 January 1998 for wage-earning and non wage-earning activities, for investment income which is subject to the levy discharging from individual income tax liability or is exempt from income tax and for substitute incomes (in particular retirement income) for which the increase of the CSG rate was limited to 2.8 points. Correlatively, this increase went with a decrease in the national health contributions (4.75 points with respect to wages and salaries, 2.8 points with respect to substitute income, in particular pensions, 5.5 points on the fraction of income not over the social security upper limit and 3.7 points on the fraction between one and five times this upper limit). Just like the increase of the CSG rate introduced on 1 January 1997, the increase was deductible from the income tax assessment basis for income subject to the progressive scale.

After the law n°2004-810 of August 13, 2004 for national health, the CSG and the CRDS on employment incomes, similar incomes or unemployment benefits are on a broad assessment basis since 1<sup>st</sup> January 2005. The assessment basis is up to 97% since 1<sup>st</sup> January 2005 of such income (95% before).

Moreover, starting to the 2004's income taxation, the rate of the CSG on retirement or disability pensions or early retirement benefits is up to 6,6% instead of 6,2% and the rate of the CSG on property income and proceeds investment is up to 8,2% instead of 7,5%.

Moreover, for the 2004's income taxation, the increase of 0,4 point of the CSG on retirement or disability pensions or early retirement benefits applicable under certain conditions is deductible from the income tax assessment basis for income.

About the property income, the contribution is deductible for 5,8 points instead of 5,1 points for the taxation on income paid for the accounting period on or after 1<sup>st</sup> January 2004.

Like the social security debt levy referred to above, the CSG has all the legal characteristics of a tax, despite the fact that its revenue is not appropriated to the State budget but to social security or, more precisely, child benefit fund (*Caisse Nationale d'Allocations Familiales*), old-age solidarity fund (*Fonds de Solidarité Vieillesse*) and the mandatory national health schemes. In fact, unlike social security contributions whose payers are entitled to benefits, the CSG is charged without direct return, like any tax.

The CSG is levied on a broad assessment basis, as it is normally levied on earned income and substitute income, property income, and investment income which is subject to the levy discharging from individual income tax liability or which is exempt from income tax.

The CSG consists actually of three separate contributions (separate assessment bases and collection procedures).

\* CSG on earned income and substitute income

As regards employment income and similar income, the assessment basis consists of gross wages and fringe benefits in cash or in kind. This assessment basis is reduced by 3% for professional expenses. In this case, the CSG is levied at source at a 7.5 % rate. It is deducted by the employer, who pays it back to organisations responsible for collecting social security contributions.

CSG applies also at the rate of 7.5 % to professional non-employment income and is paid quarterly as an interim payment.

Substitute income (retirement or disability pensions, unemployment or early retirement benefits, national health security daily allowances paid for sickness, maternity and professional injury) is normally subject to the CSG.

The taxation rate is 6.6 % since 1<sup>st</sup> January 2005 (instead of 6.2% before) (9). However, recipients of substitute income (except daily allowances paid by social security for which the CSG applies always at the rate of 6.2 %) are exempt from the CSG where income does not exceed certain amounts which entitle to exemption from local taxes. Those who do not satisfy such condition but whose annual amount of income tax does not exceed € 61 are liable to a CSG reduced rate of 3.8 %.

Starting to the 1<sup>st</sup> January 2005's income taxation, the increase of 0.4 point of the CSG is deductible from the income tax assessment basis for income, the deduction is up to 4.2 points instead of 3.8.

\* CSG on property income

The initial rate of CSG on property income was 7.5%. It is up to 8.2% for the property income for accounting period on or after 2004.

This contribution is based on the net amount of the following types of income :

- real property income;
- life annuities for valuable consideration;
- income from transferable securities other than that subject to a levy discharging income tax liability;
- capital gains from the transfer of real property and of shares in unlisted companies whose assets consist mainly of real property;
- capital gains and profits subject to income tax at a proportional rate ;
- income from rental of furnished premises derived from a non-professional activity ;
- non commercial income not subject to CSG in respect of earned income ;
- any other income not expressly named ;

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(9 ) except for the unemployment benefits which rate is always 6.2%.

- and lastly, any other income the taxation of which is attributed to France by an international convention.

CSG levied on such income is collected by individual assessment and is based and audited according to the same rules as income tax.

For the income taxation starting to the 1<sup>st</sup> January 2004, the deductible contribution is 5.8 points instead of 5.1 points.

\* CSG on fixed-interest securities subject to the levy discharging income tax liability or exempt from income tax

Like the foregoing income, income from fixed-interest securities, even exempt from income tax, is subject to a 7.5 % levy barring exceptions concerning tax-exempt income such as : *CODEVI, livret jeune, livret A, livret d'épargne populaire*. For proceeds investment, the rate is up to 8.2% starting 1<sup>st</sup> January 2005.

This levy is withheld, at the same time as the levy discharging income tax liability, ( or, whether the income is tax-exempt, at the time the income is paid ) by the payer or intermediary that pays the income concerned and that must pay back such amounts to the State.

Increases which occurred in 1997 (1 point), in 1998 (4.1 point) and in 2004 (0.7 point) are not deductible concerning income and capital gains taxed at a proportional rate or subject to the levy discharging income tax liability.

In 2004, the revenue from CSG amounted to € 66.4 billion. In 2005 it is expected to reach € 71 billion.

## **II - CONTRIBUTION FOR THE REIMBURSEMENT OF THE SOCIAL DEBT (CRDS)**

Ordinance of 24 January 1996 on the reimbursement of the social debt set up a fund aimed at amortizing the social debt (CADES), its main sources being the proceeds from several contributions earmarked for the reimbursement of such debt and connected mainly, like the CSG, with earned and substitute income, property income and proceeds from fixed-interest investment income which is subject to the levy discharging income tax liability or which is exempt from income tax.

Initially introduced for a period of 13 years starting from 1996, the duration has been raised to 18 years by the social security financing act for 1998. The limitation of the duration was abolished by the law n°2004-810 August 13, 2004 for national health.

Its territorial scope is in line with the scope of the CSG. It is paid by individuals domiciled in France for tax purposes and, concerning more particularly earned

income and substitution income, in all cases, as long as he or she contributes to a French statutory State health scheme (ordinance n° 2001-377 of 2 May 2001).

Its rate is 0.5 %.

Its assessment basis is broader than the one the CSG. Some items of income exempted from the CSG such as family benefits or housing allowances are subject to the contribution for the reimbursement of the social debt.

Its collection methods are identical to those of the CSG, except for the contribution connected with earned and substitute income from foreign sources collected individually like the social debt contribution levied on property income.

It is not deductible from the income tax assessment basis.

In 2004, the revenue from CRDS amounted to € 4.8 billion. In 2005, it is expected to reach € 4.9 billion.

### **III - 2 % SOCIAL LEVY AND SURCHARGE TO SOCIAL LEVY**

The social security financing act for 1998 introduced a 2 % levy to which are liable individuals domiciled for tax purposes in France on property income taxed by individual assessment and proceeds from fixed-interest investment income which is subject to the levy discharging income tax liability or which is exempt from income tax.

A surcharge to social levy was instituted by the law n°2004-626 of June 30, 2004 for solidarity and autonomy of old persons and disable persons. Its rate is 0.3% of the amount of the social levy on property income for the accounting period starting on or after 2003, and on proceeds investment payed since 1<sup>st</sup> July 2004.

For property income taxed in 2003, the rate is 0.15%.

Their assessment basis and collection method are in line with those of the CSG relating to the same income (see I above).

Both are not deductible from the income tax assessment basis.

No collection is made on property income or earned and substitute income from foreign sources giving rise to individual assessment, where the total contributions relating thereto (CSG, CRDS and the 2% social levy) are less than € 61.

#### **IV - SOCIAL CONTRIBUTION ON PROFITS (CSB)**

For accounting periods ending on or after 1 January 2000, persons liable to corporation tax are subject to a contribution equal to 3.3 % of the corporation tax computed on the taxable profits at the rates 33.33 %, 25 % and 19 % (15% for the accounting period opening on 2005).

It is based on the amount of corporation tax of the accounting period, less a relief of € 763 000.

Persons liable to corporation tax with a tax-free turnover of less than € 7 630 000 are exempt. To be exempt, companies must have a wholly paid up capital held continuously, for at least 75 %, by individuals or by one company or more with a turnover of less than € 7 630 000 and directly held for at least 75 % by individuals.

The CSB is collected like corporation tax and under the same guarantees and sanctions. It must be paid spontaneously at the latest at the date of the payment of the balance of the corporation tax. There are four instalments to be made at the same time as the four instalments of corporation tax before the payment of the balance.

The CSB is not a deductible expense for determining the corporation tax basis. It feeds the financing of the employers' social security contributions.

In 2004, the revenue from CSB amounted to € 869 million. In 2005, it is expected to reach € 1 billion.

<p style="text-align: center;"><b>CHAPTER 4</b></p> <p style="text-align: center;"><b>PAYROLL TAXES AND PARTICIPATIONS</b></p>
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Payroll taxes include mainly wage tax, apprenticeship tax, employers' contribution to development of vocational training and to construction effort.

Within the limited context of this brochure, only wage tax will be examined.

While this is not an income tax but a levy on the means of production of enterprises subject to this tax, wage tax is however handled within the context of income taxes. The structure of this tax is closer to the structure applying to income taxes than to taxes on consumption or on assets.

Wage tax concerns all employers established in France and French Overseas *Départements* who are not liable to VAT or who were not liable to VAT the previous year on at least 90 % of their turnover.

This tax is mainly paid by banks and insurance companies, the medical sector, associations and other non-profit organisations.

Nevertheless, in order to mitigate burden and formalities weighing on “micro-enterprises”, liable persons are exempt from payroll tax when their annual turnover or receipts do not exceed € 76 300 in the case of sales or € 27 000 in the case of service supplies (see 2nd part, chapter I, I – p 39).

The wage tax is assessed on the total gross amount of paid remuneration plus benefits in kind, as determined for the computation of social security contributions.

However, the tax assessment basis is reduced for employers partially liable to VAT. Such reduction takes the form of a percentage applied to the assessment basis, corresponding to the part of the turnover subject to VAT.

Wage tax is an annual tax determined by applying a progressive band scale to the amount of remuneration paid to each employee. The scale for remuneration received in 2004 is as follows:

- 4.25% on the part of individual wage not exceeding € 6 904 ;
- 8.50% on the part of individual wage upper € 6 904 and not exceeding € 13 793 ;
- 13.6% on the part of individual wage over € 13 793.

Employers whose annual tax is less than € 840 are eligible for an exemption (*franchise*), or for a marginal relief (*décote*) if their annual tax is between € 840 and € 1 680.

Non-profit associations are eligible for an annual tax relief equal to € 5 453 in 2005 (€ 5 362 in 2004).

This tax is paid spontaneously by liable persons on a monthly, quarterly or annual basis. Moreover, in January of the following year, an annual summary return must be filed to regularize the tax chargeable (10). Taxpayers whose amount of payroll tax does not exceed the amount of the exemption (€ 840) or the non-profit relief (€ 5 362 in 2004 and € 5 453 in 2005) are however exempted from any filing requirement.

Wage tax may be deducted from the assessment basis applying to profits, income tax or corporation tax.

The revenue expected from this tax for 2005 is € 8.92 billion ; in 2004, it was € 8.73 billion.

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(10)For employers which paid the wage tax on an annual basis, this return, which constitutes the only reporting requirement, is accompanied by the payment of the total amount of the tax.

**PART TWO**  
**TAXES ON EXPENDITURE**

Taxes on expenditure are levied on consumption and investments made by households and enterprises.

Traditionally, tax on expenditure corresponds to indirect duties on consumption and to customs duties.

The introduction of VAT and its widespread use have significantly reduced the scope and therefore the revenue from such indirect duties, even if one of them, domestic tax on mineral oil products, yields significant revenue.

<p style="text-align: center;"><b>CHAPTER 1</b></p> <p style="text-align: center;"><b>VALUE-ADDED TAX</b></p>
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In order to create a single market between the Member States of the European Union, several VAT directives were enacted since 1967 which the Member States must transpose into domestic law. The rules on scope, taxation basis, tax payability, territoriality of goods deliveries and service supplies, and filing requirements are partially harmonized. States may apply transitional provisions with respect to rates, exemptions and deduction entitlement, the rules of which are being harmonized.

## **I - STANDARD REGIME**

### **A/ VAT CHARACTERISTICS**

#### **1 - VAT IS A TERRITORIAL TAX**

VAT is a general consumption tax which is charged on all goods delivered and all services provided in France.

The territory within which VAT applies includes : continental France, Corsica, the Principality of Monaco, the territorial waters, the continental shelf, the overseas *départements* of Guadeloupe, Martinique and Réunion. The latter, however, are considered for metropolitan France as exportation jurisdictions, just as third countries are. VAT is only temporarily not applied in French Guyana.

The delivery place of tangibles is deemed to be situated in France when the tangibles are situated in France

- at the time of the shipping or transport - by the seller or buyer or on behalf either - to the buyer,
- during the assembly or installation by the seller or on his behalf,
- at the time of the availability to the buyer, in the absence of shipping or transport,

- at the time of the departure of a transport, the arrival place of which is situated within the jurisdiction of another Member State of the European Community, in case where the delivery, during such transport, is made on board an aircraft or train.

The place of service supply is deemed to be situated in France when the supplier has in France the head office of his activity or a permanent establishment from which the service is provided, or, failing that, his domicile or usual residence. However, there are exceptions which take into consideration the nature of service provided, the place where it is provided or used, the place where the provider or taker is established, and whether the latter is liable to VAT or not.

Foreign trade transactions (exportation of tangible goods and similar deliveries, supply of services linked with international traffic of goods and transactions connected with ships and aircraft, intra-EC deliveries and similar operations) are generally VAT exempt under certain conditions. However, liable persons who carry out such transactions are entitled to deduct the VAT which they have borne with respect to the purchase of the goods and services involved in such transactions.

Importations and intra-EC acquisitions as well as similar operations are normally taxed in France as long as the place of the operation is situated therein.

## 2 - VAT IS A REAL TAX

- Liability to VAT is determined by the type of transactions or products concerned, regardless of the personal situation of the liable person or his customer.

Thus, it is levied on deliveries of goods and supply of services:

- . arising under an economic activity (regardless of the type) ;
- . carried on for valuable consideration ;
- . carried on by liable persons, i.e. persons independently carrying on transactions falling within the scope of VAT.

- Activities carried on by statutory bodies (*personnes morales de droit public*) - as public authorities - are outside the scope of VAT, except where the non-liability leads to competition distortions ;

- There are several exemptions, concerning in particular :
  - . teaching ;
  - . medical and paramedical activities and hospital care costs ;
  - . charities ;
  - . insurance and reinsurance as well as service supplies pertaining thereto ;
  - . some bank transactions (granting and negotiating credits, credit management by credit grantors, negotiating and taking charge of commitments, guarantees and other securities as well as credit management by credit grantors, etc);
- A voluntary taxation is possible for some exempted activities, as an option (bare business buildings lessors, rural property lessors, some banking and financial operations normally VAT exempt).

### 3 - VAT IS AN INDIRECT TAX PAID IN FRACTIONS

VAT is finally borne by the end-user, since it is included in the sales price of products or services. Each intermediary (manufacturer, tradesman, etc.) bills his customer for the tax provided for by law and pays it back to his local tax collecting office, less input VAT paid upstream to his own suppliers. In fact, VAT is paid only on "added value", i.e. the value brought to the product or service in each production or marketing stage, in such a way that the overall tax burden at the end of the economic network by which goods or services reach the buyer, regardless of the length of the cycle, corresponds to the tax computed on the final sales price to the consumer.

### 4 - VAT IS A PROPORTIONAL TAX

VAT is computed by applying a proportional VAT rate to the basis of the transaction (VAT free), regardless of its amount.

### **B/ ASSESSMENT BASIS**

Generally, the assessment basis corresponds to the total sums, values, goods or services received or to be received by the goods supplier or service provider from the buyer, the taker or a third party, in return for delivered goods or provided services, including grants linked directly to the price of such transactions.

Thus, in addition to the agreed-upon price, the assessment basis includes all taxes, duties and levies of any kind, except VAT itself, and all incidental expenses. Such expenses include, inter alia, transport, insurance, packaging, etc. On the other hand, the taxable price does not include price reductions (cash discounts, rebates, returns granted directly to the clients), nor amounts refunded to intermediaries which incur the expenses on behalf of their principals insofar as such intermediaries give an account thereof to their principals, enter such expenses in their books and justify to the tax authorities the kind of such outlays or their accurate amount.

Concerning importations, the tax basis is represented by the value defined by customs law in accordance with EC rules in force. However, there must be included in the tax basis, as is the case in domestic law, duties, taxes, and levies, excluding discounts and rebates and other reductions. Are added thereto ancillary expenses (commission, packaging, transport and insurance costs) to the destination point, as well as expenses arising from transport to another destination point within the EC, if it is known at the time when the taxable event occurs.

There is an exemption assessed on the VAT basis which exempts from payment when the turnover (excluding VAT) during the previous calendar year does not exceed :

- € 76 300 (excluding VAT) for deliveries, eating and drinking on the premises or accommodation services; or
- € 27 000 (excluding VAT) for other services.

Special rules apply in the case of activities falling within the scope of the categories mentioned above. There is also a € 37 400 (excluding VAT) exemption for certain authors, artistes and lawyers.

However, those eligible for the exemption may elect to waive this exemption and opt for payment of VAT instead.

## **C/ COMPUTATION OF THE AMOUNT OF VAT**

To determine what he shall pay, the liable person deducts from the chargeable VAT payable on his taxable turnover the VAT paid in respect of the purchase of goods and services used to carry out the transactions subject to VAT.

### **1 - COMPUTATION OF GROSS VAT**

The amount of gross VAT is computed by multiplying the amount of sales or service supply (excluding VAT) by the rate applicable to the transaction concerned.

- The applicable rates are:

- . the standard rate is set at 19.6 % as from 1<sup>st</sup> April 2000. This rate applies to all transactions not subject expressly to another rate ;

- . the reduced rate of 5.5 % for most food and agricultural products, certain types of animal food, medical drugs not reimbursed by social security, books and, subject to certain requirements, certain services (mainly accommodation supply, meals supply to company and hospital canteens, passenger transportation, certain entertainments). Since 15 September 1999, the 5.5 % rate applies also to improvement, converting and maintenance works for dwelling premises completed for more than two years, except for the supply of large equipment;
  - . the special rate of 2.1 % charged in particular on press publications and medical drugs reimbursed by social security.
- special rates are in force in Overseas *Départements* (Guadeloupe, Martinique, Réunion) where VAT applies, as well as in Corsica.

## 2 - SETTING OFF INPUT TAX

- Barring express exceptions (e.g. certain restaurant and accommodation expenses, passenger transportation expenses , etc.), VAT invoiced to the liable person by his suppliers is deducted from gross VAT, for such acquired goods and services (purchases, overheads and investments) used for carrying out transactions liable to VAT or exempt from such tax but entitling to a deduction (operations within foreign trade).
- The overall amount of VAT to be paid is determined by the liable person himself:
- If the difference between gross tax and input tax is negative, the liable person normally sets off the surplus against his future tax payments or may, under certain conditions, request its refund.
- Concerning liable persons established abroad, they may, under certain conditions, obtain the refund of VAT charged on purchased or imported goods and on services provided in France pursuant to the provisions of the eighth Directive of 6 December 1979 (liable persons established in the EC) or the thirteenth Directive of 17 November 1986 (liable persons not established in the EC).

## D/ REQUIREMENTS

VAT liability entails the following requirements :

- . reporting the existence, identification or discontinuance of a business;
- . detailed book-keeping, supported by any evidence or by a special ledger ;
- . delivering invoices bearing the VAT-free price, the VAT rate and the amount of VAT and the VAT identification number of the seller or service provider as well as buyer's or taker's concerning some intra-EC transactions;

- . filing turnover returns on a monthly or quarterly basis, depending on the amount of tax payable annually ;
- . filing goods movements for certain intra-EC transactions for statistical and tax purposes ;
- . spontaneous payment to the tax collecting office along with the return specifying the turnover or according to provisional payments.

Taxpayers eligible for the exemption assessed on the VAT basis are granted fewer requirements (annual turnover  $\leq$  € 76 300 with respect to delivery of goods, indoor takings and accommodation services or  $\leq$  € 27 000 for other service supplies).

## **II - SPECIAL REGIME FOR IMMOVABLE PROPERTY OPERATIONS**

There are also numerous special regimes which take into account the special methods of carrying on certain activities. Such is the case of bank and financial activities, operations in connection with investment gold, travel agencies. As an example, here is the special regime for the production or supply of buildings.

### **A/ SCOPE**

There shall be subject to VAT the operations which contribute to the production or supply of immovable property, i.e. sale of, and contribution to, certain developing land or similar property, self-supply, sale of immovable property and sale of interests or shares therein, the ownership of which ensures, de jure or de facto, the attribution of all or part of the immovable property either in ownership or in enjoyment. These operations are liable to VAT even if they are civil operations and irrespective of the person carrying them on and of his position with respect to direct taxes.

The term « immovable property » refers to property built on a heightened level or on a basement, works incorporated to the ground, movables which cannot be detached without being deteriorated or resulting in the deterioration of the building itself.

Applying VAT on immovable property is conditional upon the fact that the immovable property is situated within the jurisdictions in which the metropolitan VAT laws apply, foreign companies carrying on construction operations in France being subject to VAT on immovable property under the same conditions as French companies are.

When subject to VAT, the foregoing operations bear the tax on the registration of real property transactions at the reduced rate of 0.60 %.

Shall be VAT exempt :

- certain transfers : contributions to, and sales of, developing land by local authorities to council housing entities, re-grouping of land, building leases, etc.
- certain self-supplies : constructions made by the State or local authorities, except if they are for a trading operation or allocated to social housing to be let, constructions of car parks carried out on outbuildings of public property, etc.

Moreover, since 22 October 1998, there shall be subject to transfer duties only the purchase, by individuals, of land to set up buildings for housing.

### **B/ TAX BASIS AND RATES**

In the case of transfers of developed or undeveloped land, the tax basis is represented either by the sale price, the amount of allowance or the value of corporate rights remunerating the contribution, marked up by the added costs, excluding VAT itself, or the real market value of the property if it is higher than the value mentioned in the deed of sale or contribution, the authorities being obliged to bring the proof of the inadequacy of prices given and evaluations provided in deeds or tax returns and to establish that the difference is the result of tax avoidance or tax evasion.

In the case of transfers of corporate rights entitling to the attribution of immovable property, VAT is payable on the gains derived by the transferor.

The tax basis of self-supplies of buildings is represented by the total cost price of the building (excluding VAT). This price includes all the elements constituting the cost of the building, in particular the cost of the land, the cost of the studies, plans, fees for the architect and surveyor, the purchase price of materials, the contractors' bills, the financial costs incurred for the construction, etc.

Normally, the operations contributing to the production or supply of immovable property are taxed at the rate of 19.6 %. However, certain operations are taxed at the reduced rate of 5.5 %. These are sales of, and contributions to, developing land and similar property granted to certain persons (council housing bodies for example), self-supplies of certain social housing to be let, sales or first contributions of certain new social housing to be let, and self-supplies of housing to be let to the owner of a hire-purchase contract.

### **C/ DEDUCTION REGIME**

Those who carry on operations liable to VAT on immovable property are, concerning deductions, liable generally to the same regime as ordinary taxpayers. They may therefore deduct VAT pertaining to the various elements of price of the operations subject to such tax. Thus, barring exceptions, VAT pertaining to a building is likely to be deducted only if such building is subject to a new operation liable to VAT or if it is used by an enterprise for the purposes of its operations which entitle to deduction.

#### **D/ REQUIREMENTS RELATING TO VAT ON IMMOVABLE PROPERTY**

In a transfer, the VAT payer is the seller, the contributor or the recipient of allowance. However, where the transfer or contribution is connected with a building which was not in the scope of VAT before such transfer or contribution (land to develop or any comparable thereto), VAT is charged to the purchaser, the company receiving the contribution or the payer of the allowance. In order to exercise his rights to deduction, the seller or contributor has nevertheless the option to take the position of a liable person.

With respect to self-supply, VAT is charged to the constructor, i.e. in almost all cases, to the owner of the building.

#### **E/ OPERATIONS CARRIED ON BY PROPERTY DEALERS AND DEVELOPERS**

There shall be considered as property dealer he who, usually, buys at his name, in order to resell, a building, goodwill, shares or rights in immovable property companies, or who, usually, subscribes in order to resell, shares or rights issued by the same companies, whether such operations characterize or not the carrying on of a true profession.

Where they contribute to the production or supply of buildings, operations by property dealers or developers are subject to VAT.

VAT charged to property dealers and developers is paid on the gross profits, where the sales are not within the scope of VAT on immovable property. The profit is equal to the difference between, on the one hand, the sales price marked up by costs, or, if higher, the market value of the property sold, and, on the other hand, the purchase price represented by either the amounts which the transferor has paid for the purchase, or the nominal value of shares or rights received in return of the contribution in kind.

Property dealers and developers are subject to the general requirements to which those subject to VAT comply with, as well as to special requirements (filing their existence declarations within one month to their local office, or the local office of each branch or agency thereof, keeping a daily list of all the deeds related to the business, whether they are official or private deeds).

Finally, acquisitions by property dealers and developers may, under certain conditions, be exempted from transfer duties, where they inform of their intention to resell the acquired property within four years. When the resale occurs, they pay VAT which is chargeable on the gross profit. In case of absence of sale within the legal time limit, the purchaser has to pay, except in case of absolute necessity, the amount of tax the payment of which was deferred, and interest for late payment.

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The net revenue expected from VAT in 2005 is € 127.23 billion (€ 120.9 billion in 2004).

<p style="text-align: center;"><b>CHAPTER 2</b></p> <p style="text-align: center;"><b>INDIRECT TAXES AND SIMILAR CHARGES (EXCISE)</b></p>
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The European Directive of 25 February 1992 and the three Directives of 19 October 1992 have partly harmonized indirect taxes at Community level (excise). This harmonization concerns mineral oils, alcoholic produces and tobacco products. The new system was introduced into French law on 1st January 1993.

Other products remain subject to national rules.

## **I - TAXATION OF SPIRITS AND ALCOHOLIC BEVERAGES**

### **A/ TAX TREATMENT OF SPIRITS AND ALCOHOLIC BEVERAGES**

Produces liable to indirect duties on alcohol are subject to a consumption tax (in particular brandies and liquors, aperitifs, unnatural wines and, more generally, all alcohol-based preparations). Normally, taxation of beverages made of distilled alcohol are based on tariffs per hectolitre of pure alcohol and beverages made of distilled and fermented alcohol (intermediate products) are taxed according to the finished produce volume.

### **B/ WINES AND CIDERS**

The same tax treatment applies to wines, ciders, perries and meads. They are subject to a transport duty applied to the volume of taxable produces.

### **C/ COMMON PROVISIONS**

Consumption and transport duties are computed when the produces are retailed.

Moreover, any person trading in alcoholic beverages, alcohol-based produces and such beverages as wines and ciders is subject to special economic rules.

## II - DOMESTIC TAX ON MINERAL OIL PRODUCTS

Mineral oil products are subject to the following specific indirect taxes : the domestic tax on mineral oil products (*taxe intérieure sur les produits pétroliers*, TIPP) computed on volumes or bulks (in Francs per hectolitre, for instance) and the Value Added Tax ( VAT). Moreover, the TIPP is included in the assessment basis of mineral oil products subject to VAT.

TIPP is determined according to the physical characteristics of taxed mineral oil products, and computed according to customs tariffs.

TIPP applies only within the territory of metropolitan France ( continental France and Corsica) and does not apply within the overseas *départements et territoires*. Within the overseas *départements*, a special consumption tax (TSC) is assessed on petrol and diesel.

TIPP is collected by the *Direction générale des douanes et des droits indirects* (DGDDI, customs and indirect duties directorate) on mineral oil products retailed on the domestic market.

TIPP raised € 25.31 billion in 2004 – with the same perimeter (income transfered to the *Départements* - € 5 billion) – and is expected to raise € 65 billion in 2005 – with the same perimeter (income transfered to the *Regions* - € 0,4 billion).

## III - TAX TREATMENT OF TOBACCOS

Tobaccos are subject to a duty when marketed. The revenue in 2004 raised € 9.196 billion.

The revenue expected for taxes in 2005 is € 9.45 billion, with the same perimeter - € 1.09 billion transfered to the national health fund (*Caisse d'assurance maladie*).

## IV - ENTERTAINMENT TAX

Collected for appropriation to the municipalities, entertainment tax is levied on receipts from admissions to sports meetings except for some sport events, on gambling clubs and houses and slot machine facilities in public premises.

## V - DUTY ON PRECIOUS METALS

The State guarantees the fineness of gold, silver and platinum materials by hallmarking them in consideration of a specific duty. The rate varies according to the nature and content of the precious metal used. The chargeable event is the marketing of the products concerned.

The revenue from such duty raised in 2004 € 15 millions. It should amount to € 5 million in 2005 (the fall is the consequence of supplementary budget for 2003 article 35).

## VI - GENERAL TAX ON POLLUTING ACTIVITIES

The general tax on polluting activities (*Taxe Générale sur les Activités Polluantes* or TGAP) was provided for in the 1999 finance act, by pooling the five former taxes and other mandatory levies earmarked to the environment and energy-mastering agency (*ADEME*). Its introduction aims at improving the incentive to protect environment, by applying the principle of « pay as you pollute ». The new tax referred initially to the dumping of garbage, the storage and elimination of special industrial waste, oil consumption, atmospheric industrial pollution and the noise generated by air traffic.

Pursuing an objective both environmental (fight against pollutions) and social (feeding the fund for financing employers' social security contributions), the legislator decided in 2000 to extend the scope of the new tax to washing and softening products, natural mineral grains, anti-parasite products for agricultural use, and listed facilities. At the end of 2004, to promote the use of biofuel in transport, the Parliament instituted a new surcharge of TGAP on diesel oil and high-octane petrol without lead (2005 finance amendment act, article 32).

The taxation regime is inspired from the taxation methods applying to excise ; it is inserted in the French customs code in articles 266 *sexies* to *quindecies*.

The payer of this tax is the person who supplies for the first time after the domestic manufacturing or who provides the supply on the internal market after the purchase, importation or manufacturing in another Member State of the EC, or who sells these consumer products (washing detergents, natural mineral grains, anti-parasite products for agricultural use, diesel oil and high-octane petrol without lead).

The taxable event is the retailing on the domestic market, after domestic manufacturing or importation. Rates vary according to the basis of taxable products. Exemptions provided for as regards TGAP (exportation or direct shipping to another Member State of the EC) have been enlarged by the article 24 of 2002 finance amendment act to the receipt of material and garbage considered as “inert” as they are called (that is to say garbage which does not decay, burn out, produce chemical reaction or which is not biodegradable).

There is a reduce of surcharge levy applicable for fuels mentionned yet according to the level of biofuel added to fossil fuel for customers in France. The minimum rate of incorporation constitutes the portion of energy of biofuel in the fossil fuel, expressed in lower calorific value (LCV). It is to 1.2% in 2005. It increases to 0.3% in 2006, to 1.5% in 2007, to 1% in 2008, to 1% in 2009 and to 0.75% in 2010.

TGAP is declared, checked and collected according to the rules, guarantees and penalties provided for in the field of customs.

The yield expected from this new tax in 2004 is € 425 million. It should be the same in 2005.

## **PART THREE**

### **PROPERTY TAXES**

Property may be taxed when alienated, whether for valuable consideration (transfer) or not (gift, inheritance). In these cases, tax takes most often the form of registration duty.

Moreover, property may be taxed because of the fact that it is held. In this case, property is subject to an annual tax assessed on its total value represented by wealth tax (*impôt de solidarité sur la fortune, ISF*) and real property tax with respect only to the building element.

This last-mentioned tax is examined in the chapter entitled "local taxes".

Lastly, capital gains derived from the alienation of property may be taxed. The tax treatment applicable to capital gains is dealt with in the first part of this brochure ("Income tax").

<p style="text-align: center;"><b>CHAPTER 1</b></p> <p style="text-align: center;"><b>REGISTRATION DUTIES</b></p>
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## **I - REGISTRATION FORMALITY**

Traditionally, the registration formality consists in analysing a deed by a civil servant who assesses and collects the duties provided for by law. Registration has a tax purpose, but the formality also has civil consequences : it gives the deed a legal date ; in certain cases, it determines the validity of legal deeds. For real property transfers, it allows the updating of real estate records.

Normally, the presentation of deeds to the formality is accompanied by the payment of duties. However, in certain cases, payment may be made in instalments or deferred. Lastly, duties on transfers without consideration (duties to be paid when gift deeds or declarations of deceased persons' estates are filed) may be paid in the form of art works handed over to the State, subject to ministerial approval.

Such tax is normally collected for appropriation to the State. However, duty on sales of real property is collected for appropriation to municipalities and *départements*.

The assessment basis normally consists of the market value of the property at the date of the deed or transfer, as mentioned in the deed or in the estimated declaration filled out by the parties, and then audited by the authorities. The market value of property corresponds to its sales value, i.e. the price at which this property may be sold or bought under market conditions.

Registration duties are fixed, proportional or progressive, depending on the type of deed or legal transaction subject to the formality.

- Fixed duties are constant when applied to deeds classified in a given category or not liable to proportional or progressive duties. There are several fixed duties: duties on the decisions of criminal courts (from € 22 to € 375 and to € 500 starting to 1<sup>st</sup> January 2006), and duties on private or commercial deeds (three fixed duties from € 15 to € 230 per deed, including a duty of € 75 for unnamed deeds and deeds not specifically exempt or having no fixed rates. These duties are up to € 25, to € 375 or to € 500 and to € 125 starting to 1<sup>st</sup> January 2006).
- Proportional duties represent a constant percentage of the value of assets covered by legal deeds or transactions. This mainly applies to sales of real property, insurance contracts and certain corporate transactions.

- Progressive duties are duties the rates of which increase as the values concerned rise. This applies in particular to transfers without valuable consideration (see § B-4 below on transfers without valuable consideration).

Revenue from registration duties amounted to € 14.947 billion in 2004. In 2005, the total registration duties should amount to € 14.365 billion.

## **II - MAIN REGISTRATION DUTIES**

### **A/ SALES OF REAL PROPERTY**

Duties on sales of real property are collected when the property is transferred. In addition to tax on the registration of real property transactions, such transfer gives rise to additional local taxes.

- Initially collected for appropriation to the State, tax on the registration of real property transactions has become a *département* resource for all real property transactions other than exchanges conducted since 1st January 1985. Its rate is now a single one at 3.6 %.
- Apart from the tax on the registration of real property transactions, there is an additional tax of 1.20 % collected for appropriation to the municipality or to a *département* equalization fund (11) ;
- There is also another levy of 2.50 % collected for appropriation to the State, assessed on the amount of the *département* duty in respect of "assessment and collection costs".
- Starting to 1<sup>st</sup> January 2006, there is also added a 0.2% tax collected for appropriation to the State.

In each *département*, the rates of the tax on registration of real property transactions may be modified between 1 % minimum and 3,6 % maximum.

Acquisitions made by the State or its scientific, educational, assistance and charity establishments or by local authorities are exempt from any transfer duty.

### **B/ LEASES OF BUILDINGS LASTING MORE THAN TWELVE YEARS**

They are subject to the tax on the registration of real property transactions at the rate of 0.6 %.

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(11) This fund divides the tax among municipalities with fewer than 5000 inhabitants each.

### C/ TRANSFERS OF BUSINESSES (CESSIONS DE FONDS DE COMMERCE)

Transfers of businesses are taxed according to a band scale.

The corresponding duties are mainly collected for appropriation to the State. However, additional *département* and municipality taxes are also collected.

Transfers of businesses (*fonds de commerce*) are subject to transfer duties at the rate of 4.8 %. This rate applies :

- in case of general transfers, to the fraction of the price over € 23 000 ;
- in transfers made in urban revival zones, urban free zones, rural revitalization zones (ZRR), and certain *communes* in priority development rural territories other than those situated in ZRR, to the fraction of the price over € 107 000 (between € 23 000 and € 107 000, the rate is 1 %).

The detail is as follows :

Fraction of the taxable value	State	<i>Département</i>	<i>Municipal.</i>	Combination
Up to € 23 000	0	0	0	0
Between € 23 001 and € 107 000	3.8	0.6	0.4	4.8
Over € 107 000	2.4	1.4	1	4.8

Special regimes apply to acquisitions in connection with business reorganizations.

Starting to 1<sup>st</sup> January 2006, rates of 3.8% and 2.4% are abolished. The new rates are 4% and 2.6%.

The taxation of transfers of businesses is as follows:

Fraction of the taxable value	State	<i>Département</i>	<i>Municipal.</i>	Combination
Up to € 23 000	0	0	0	0
Between € 23 001 and € 107 000	4	0.6	0.4	5
Over € 107 000	2.6	1.4	1	5

At least, duties on transfers collected for the appropriation of the State on transfers of businesses are reduce to 0% when there is an exemption on professional capital gains on transfer subjected to the article 238 quaterdecies of French tax code and subjected to the obligation to maintain the business during at least 5 years.

## **D/ TRANSFERS OF CORPORATE RIGHTS**

Transfers, with consideration, of corporate rights give rise to the following registration duties:

- 1 % limited to € 3 049 for the transfers of shares, founders shares or rights to participating in profits and rights in capital subscribed by customers of mutual and co-operative banking establishments insofar as such mutual and co-operative banking establishments do not consist mainly of real estate (12);
- 4.8 % for transfers :

➤ of corporate rights of companies the capital of which is not divided in shares ; concerning these corporate rights, when they don't consist mainly of real property (see above), the tax is calculated after granting, for each corporate right, on the right value a tax relief equal to the ratio between € 23 000 and the total number of corporate rights of the company.

➤ of shareholding in unlisted corporate bodies consisting mainly of real property.

To be a corporate body consisting mainly of real property, it is unlisted and its assets are, or were during the year before the transfer of the shareholding in question, mainly represented by real property or rights in real property situated in France, or shareholding in unlisted corporate bodies consisting themselves mainly of real property. However, council flats and « mixed economy companies » carrying out building activities or welfare housing management are not considered as corporate bodies consisting mainly of real property.

Since 1<sup>st</sup> January 2006, the registration duty is up to 1.1% instead of 1%. The limite is p to € 4 000 instead of € 3 049. The duty registration is up to 5% instead of 4.8%.

## **E/ REGISTRATION DUTIES CHARGEABLE TO COMPANIES**

Companies are subject to registration duties at different rates when they are incorporated, during their existence, and on dissolution.

### Incorporation

Mere contributions (*apports purs et simples*), made as of 1 January 2000 when the company is incorporated are exempt from the fixed duty of € 230 (is up to € 375 and € 500 in 2006). Exemption applies also to contributions of a one-man business with the company taking over the liabilities accruing to the contributor (with the contributor's commitment to keep the securities).

Contributions for valuable consideration (i.e. a real sale by the contributor to the company) are treated as transfers for valuable consideration, according to the nature of assets concerned (buildings, businesses as going concerns, etc). However, in case of contribution into a company, by an individual, of all the fixed

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(12) Where the joint stock company is listed, only the transfer established by a deed gives rise to registration duties at the rate of 1 % (capped at € 3 049).

assets allocated to the performance of a business activity, the rate of the duty resulting from the take-over by the company of the liabilities is reduced to 2 % (if the liabilities are credited against real property or against business as a going concern). The rate is up to 2.2% starting to 1<sup>st</sup> January 2006.

### Existence

Capital increases by cash or by incorporation of profits, reserves or allowances (*provisions*) are subject to a fixed duty of € 230.

Starting to 1<sup>st</sup> January 2006, the fixed duty is up to € 375 instead of € 230 when capital is lower than € 255 000 and to € 500 when it is rising these amount.

Capital reductions whereby assets are allocated to partners are normally subject to a 1 % proportional rate of reduction duty (*droit de partage*). The rate is up to 1.1% since 1<sup>st</sup> January 2006. Capital reductions subsequent to losses incurred by the company, without any reimbursement to the partners, are subject to a fixed duty of € 75. Starting to 1<sup>st</sup> January 2006, the fixed duty is up to € 125.

Mergers, demergers and partial contributions of assets made under the conditions provided for in Articles 816 and 817 of the French tax code give rise to the payment of a lump sum duty of € 230 (€ 375 or € 500 starting to 2006). Taking charge of the liabilities is exempt from any transfer or registration duty on real property transactions.

### Dissolution

Deeds providing for dissolution are subject to a fixed duty of € 230 (€ 375 or € 500 starting to 2006) if they establish no transfer of assets between partners or other persons.

The transfer of corporate assets to third parties is liable to the sales duty corresponding to the type of asset. Transfers to partners and sharing between partners follow complex rules and may give rise to additional duties in case of sale.

## **F/ INHERITANCE AND GIFT DUTIES**

Transfers without valuable consideration include, on the one hand, transfers following death, i.e. inheritance, and, on the other hand, transfers without return inter vivos, i.e. gifts.

As regards inheritance, it is necessary to make the following distinction to determine the assessment basis :

- The deceased person had his or her domicile for tax purposes in France. Duties on transfers are payable on all movable and immovable property situated in or outside France.
- The deceased person did not have his or her domicile for tax purposes in France. Duties on transfers are payable only on movable and immovable property situated in France.

- The heir, donee or legatee is resident for tax purposes in France. As of 1 January 1999, capital transfer tax is payable in respect of movable and immovable property situated in or outside France, and in particular government securities, interest shares, debt-claims and generally any French or foreign securities of any kind received by the heir, donee or legatee who is resident for tax purposes in France within the meaning of article 4 B of the French tax code. However, this provision shall apply only where such heir, donee or legatee had his residence for tax purposes in France for at least six years during the last ten years before the year in which he receives the property.

Moreover, rules for determining the assessment basis differ for certain assets according to whether inheritance or gifts are involved (in particular the notional estimate of movables and valuation of jewellery and art works or collection items). Until now, liabilities were not deductible for the assessment basis of the computation of the registration duty. Now, when liabilities are contracted to keeping gifts or in the interest of the gifts when gifts are for business when there are in charge of the donee in the registration, there are deductible for the donor.

Duties on transfers without valuable consideration are computed according to a progressive or proportional scale, applied to the net amount received by each beneficiary, normally minus a basis relief (*abattement à la base*). The relief varies according to the degree of kinship between the parties to the transfer. In case of transfer between spouses or between ascendants and descendants, general reliefs (€ 76 000 or € 50 000) or special reliefs apply.

After minus personal reliefs, a general relief is applied which amount is € 50 000 for inheritance to transfers between parents and children or between spouses.

The progressive or proportional rate does not only vary according to the value of the transferred property but also to the degree of kinship between the deceased person or the donor and the beneficiary on the one hand, the beneficiary and the donee on the other hand.

There are several scales:

\* scale applicable to transfers between parents and children:

Net taxable part	Applied rate
Up to € 7 600.....	5 %
€ 7 601 – 11 400.....	10 %
€ 11 401 – 15 000.....	15 %
€ 15 001 – 520 000.....	20 %
€ 520 001 – 850 000.....	30 %
€ 850 001 – 1 700 000.....	35 %
Over € 1 700 000.....	40 %

\* scale applicable to transfers between spouses:

Net taxable part	Applied rate
Up to € 7 600.....	5 %
€ 7 601 – 15 000.....	10 %
€ 15 001 – 30 000.....	15 %
€ 30 001 – 520 000.....	20 %
€ 520 001 – 850 000.....	30 %
€ 850 001 – 1 700 000.....	35 %
Over € 1 700 000.....	40 %

\* scale applicable to transfers between brothers and sisters: a rate of 35 % on the fraction up to € 23 000 and 45 % on the fraction exceeding this amount ;

\* scale applicable to transfers between relatives up to the fourth degree inclusive: the rate is 55 %;

Temporary exemption on duties on transfers:

Gifts of money to children or grandchildren, or if there is no children or no grandchildren to nephew or niece are exempted on duties on transfers up to € 20 000 for the gifts made between 1<sup>st</sup> June 2004 and 31 May 2005.

\* scale applicable in all other cases: the rate is 60 %.

There is a partial exemption in favour of transfers of enterprises by death.

Articles 787 B and 787 C of the French tax code provide that shall be exempt from transfer duties, up to half the value of, the company securities as well as sole proprietorships carrying out industrial, commercial, small trading, agricultural or independent services, under certain conditions.

Gifts by deeds in naked or in full property qualify respectively for a reduction of duties of :

- 50 % or 35 % where the donor is less than 65 years old;
- 30 % or 10 % where the donor is between 65 and 75 years old.

Until 31 December 2005, gifts by deeds in full qualify for a 50 % reduction of duties whatever the age of the donors.

\* Solidarity Civil Pact (*Pacte Civil de Solidarité PACS*)

Transfers without valuable consideration between partners of a *PACS* are eligible to a relief and a specific rate since 1 January 2000 :

- Relief : € 57 000 ;
- Rate : 40 % for the fraction up to € 15 000 and 50 % for the excess.

Specific scale and rate apply immediately to inheritance tax and for gifts. But if the PACS is breaking during the same year of its conclusion for something else than marriage between partners or death of one of the partners, the exemption of transfers duties is abolished.

### **G/ LEVIES ON LIFE-INSURANCE POLICIES**

Amounts, annuities or values accrued through one or more insurance companies or comparable organizations, in respect of the death of the policy holder, which are not within the scope of the inheritance, shall be subject to a 20 % levy. The taxation is assessed, for the portion accruing to each beneficiary without consideration :

- on the amounts, annuities or values corresponding to the redeemable fraction of the contract;
- and on the premiums paid with respect to the non redeemable fraction of the contract.

Such basis is decreased by an overall relief of € 152 500 for each beneficiary.

Survivorship-annuity contracts and group insurance contracts underwritten in connection with business activity are outside the scope of this scheme which applies to contracts underwritten as of 13 October 1998 and to premiums paid as of that date for current contracts, only inheritances beginning on or after 1 January 1999 being concerned.

<p style="text-align: center;"><b>CHAPTER 2</b></p> <p style="text-align: center;"><b>STAMP DUTIES AND SIMILAR</b></p>
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Stamp duties are collected when certain formalities or the drafting of certain documents, etc are carried on. Generally, they are paid by affixing a sticking stamp on the written document. They are also a method of payment for the delivery of certain documents or the performance of certain formalities. The revenue of stamp duties collected for appropriation to the State amounted to € 1.46 billion in 2001.

Size related stamps duty is abolished starting to 1<sup>st</sup> January 2006.

**The main stamp duties are as follows :**

### **I - SIZE RELATED STAMPS**

This duty is chargeable (until 31 December 2005) on the drafting of deeds listed exhaustively (deeds by law officials, deeds subject to registration, etc.). Its rate varies according to the paper size (from € 6 to € 24 per sheet).

### **II – MOTOR TAX**

#### **A/ DIFFERENTIAL TAX ON MOTOR VEHICLES**

Its tariff varies from one registration *département* to another and according to the engine rating. The revenue passes to the *départements*. However, since 2001, it is no longer charged on cars, commercial vehicles not exceeding two tons belonging to individuals. Since 2001, the first three cars of all enterprises and legal persons are also exempt. “Clean” vehicles may also, upon local authority decisions, be exempt from half or all such tax.

For taxpayers, the issuance proceeding to prove the payment is abolished starting to 1<sup>st</sup> March 2005. He just need to declare it now.

#### **B/ TAX ON COMPANY CARS**

It applies to cars owned or used by companies. It amounts to € 1 130 for engine ratings not over 7 horsepower, and € 2 440 for the others. “Clean” cars are, according to the energy used, exempt from half or all the tax.

### **III - OTHER STAMP DUTIES**

Stamp duties are also chargeable on gambling receipts (such as lotto, tote and one-off lotteries) and the issuance of administrative documents (access cards to casinos, residence permits, passports, car registration books (*cartes grises*)).

<p style="text-align: center;"><b>CHAPTER 3</b></p> <p style="text-align: center;"><b>WEALTH TAX</b></p>
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Wealth tax (*impôt de solidarité sur la fortune, ISF*) is an annual tax chargeable to individuals with respect to the holding of their property when the net value of their property exceeds a certain amount. It was introduced in 1989.

In 2004, the revenue from wealth tax amounted to € 2.646 billion. The expected revenue for 2005 is € 2.84 billion.

## **I - TAXABLE PERSONS**

Individuals resident in France or who own therein property, and whose property's net value exceeds € 732 000 (the limit applicable starting to 1<sup>st</sup> January 2005) on 1st January of the taxation year are subject to wealth tax.

Persons resident in France are taxable on property owned in and outside France.

Persons resident outside France within the meaning of French domestic law are only taxed on property situated in France.

The tax is assessed by household which consists of spouses or persons living under a common-law marriage and any under-age children the property of whom either parent has the guardianship. Partners bound by a *PACS* as of 1 January of the taxation year are subject to a joint taxation.

## **II - ASSESSMENT BASIS**

- The assessment basis includes all property, rights and securities forming the property of taxable persons on 1st January of the taxation year (developed or undeveloped land (*immeubles bâtis ou non bâtis*), sole proprietorships, farming businesses, furniture, financial investments, cars, aircraft, yachts, etc.).

However, certain assets are fully or partly exempt, i.e. mainly business assets : sole proprietorships effectively managed by the taxpayer and interest  $\geq 25$  % held by the managers, corporate rights for which a promise of keeping was taken, small or middle companies corporate rights received in exchange of some contributions, of literary and artistic copyrights, certain rural assets, antiques, artworks and collection items.

Moreover, the financial investments of persons not resident in France for tax purposes are expressly tax exempt.

The following categories are not considered as financial investments and are therefore taxable :

- securities in companies whose assets consist substantially of real property, i.e. shares in an unlisted company or corporate body the assets of which consist primarily of real property or real property rights situated within France, in proportion to the value of such assets compared with the company's total assets;
  - holding interests representing at least 10 % of the capital of a company.
  - Shares and corporate rights held directly or indirectly for more than 50 % by corporate bodies or organizations owning real property or real property rights situated in France.
- As a general rule, taxable assets are valued according to the rules applicable to inheritance tax (normally, at market value).

### III - TAX SCALE

The amount of tax is determined by applying a scale to the assessment basis. On 1st January 2003, this table is as follows :

Fraction of taxable net value of property	applicable rate %
Up to € 732 000 .....	0
From € 732 001 to € 1 180 000 .....	0.55
From € 1 180 001 to € 2 339 000 .....	0.75
From € 2 339 001 to € 3 661 000 .....	1
From € 3 661 001 to € 7 017 000 .....	1.3
From € 7 017 001 to € 15 255 000 .....	1.65
Over € 15 255 000 .....	1.8

For taxpayers residents of France for tax purposes, a system of upper limit aims at capping the aggregation of wealth tax and income tax of the previous year to 85 % of the aggregate income. If this percentage is exceeded, the wealth tax is reduced by the excess. This decrease is however limited for taxpayers whose wealth exceeds € 2.339 million in 2005.

Wealth tax is collected in view of a tax return, accompanied by the corresponding payment, filed on 15 June to the tax collecting office.

<p style="text-align: center;"><b>CHAPTER 4</b></p> <p style="text-align: center;"><b>PROPERTY TAX FOR COMPANIES</b></p>
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French and foreign corporate bodies which, directly or indirectly, own one or more real property assets (*immeubles*) situated in France or hold real rights connected with such property are liable to an annual tax equal to 3 % of the market value of such real property or rights. This tax is chargeable to corporate bodies, regardless of their form, on real property assets and real rights owned on 1st January of the taxation year. However, it is not chargeable in respect of property held in inventory by corporate bodies carrying on business as property dealers or developers.

Similarly, French law provides that six categories of corporate bodies and organizations may be exempt from this tax under certain conditions, i.e.:

- a corporate body not considered as having assets which consist substantially of real property ;
- a corporate body whose head office is situated in a country or jurisdiction having signed a tax convention with France which provides for administrative assistance designed to fight against tax evasion and avoidance;
- a corporate body whose place of effective management is situated in France or which, under a convention, must be treated the same way as a corporate body having its head office in France;
- a company listed on the stock exchange ;
- an international organization, sovereign State or public institution;
- a pension fund and other non-profit organization carrying on a disinterested activity with a social, philanthropic, educational or cultural purpose.

Each year, corporate bodies liable to the 3 % tax must file a special return before 15th May, recording the location, the representation and the market value of taxable real property and property rights held on 1st January of the year of taxation. The return filed by the corporate body liable to the 3 % tax must be accompanied by the payment of such tax. Moreover, any corporate bodies interposed between the party or parties liable to this tax and the taxable real property or property rights are jointly liable for its payment.

## PART FOUR

### LOCAL DIRECT TAXES

Local direct taxes are the oldest taxes of the French tax system. They succeed the direct taxes created in 1790 and 1791 as State taxes, and were transferred to the territorial authorities during the tax reform of 1914-1917.

The characteristic of local taxes is that their assessment basis consists primarily of land registry rental value (*valeur locative cadastrale*), except for business tax. Land registry rental value does not represent rent derived in ordinary market conditions but the theoretical yield of an estate as determined by the authorities.

The State collects local taxes for appropriation to territorial authorities (regions, *départements*, municipalities, public establishments of intercommunal co-operation or *établissements publics de coopération communale*).

Local taxation includes four main taxes (real property tax on developed land, real property tax on undeveloped land, residence tax, and business tax). There are also additional or similar taxes.

Local tax rates are set by territorial assemblies (*conseil régional, conseil général, town council, etc.*) when voting for the annual budget, according to the revenue which the various local authorities expect from taxes collected for their appropriation. However, the tax rates may not exceed certain limits set by the State. Such rates apply to bases determined by the State, too.

There are many permanent or temporary exemptions.

In 2004, the total revenue of the four main local direct taxes amounted to € 54.46 billion.

<p style="text-align: center;"><b>CHAPTER 1</b></p> <p style="text-align: center;"><b>REAL PROPERTY TAX ON DEVELOPED LAND</b></p>
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Real property tax on developed land is levied annually on developed land situated in France except where it is entitled to permanent exemption (public estate or *propriétés publiques*, rural real property for farming, etc.) or temporary exemption (intended to promote construction).

Taxable property include all constructions fixed to the ground, designed to last and showing the characteristics of true constructions, such as premises intended to shelter either people (housing buildings, houses) or assets (workshops, sheds), certain structures and certain ways, land immediately and necessarily connected with such constructions, etc.

The assessment basis is the land registry income (*revenu cadastral*), equal to 50 % of the land registry rental value as regularly updated by the authorities.

The amount of tax is obtained by multiplying the assessment basis by the tax rate voted for by the relevant territorial authority for the year concerned.

The tax is chargeable to the owner of the property as on 1st January of the year of taxation.

Taxable persons over 75 years old whose income does not exceed certain amounts, persons entitled to a supplementary allowance from the *Fonds Special Vieillesse* and *Fonds special invalide* or an allowance for handicapped adults are exempt from property tax on land and buildings for their main home. Further, for taxation for 2002 and the following years, liable persons of modest condition as defined by law, more than 65 years old on 1<sup>st</sup> January of the taxation years and less than 75 years old are eligible to an automatic € 100 relief from the real property tax on developed land pertaining to their main residence.

Temporary exemptions of varying duration may be granted on new constructions and to new companies.

In 2003, the revenue amounted to € 15.89 billion. In 2004, it amounted to € 16.58 billion.

**CHAPTER 2****REAL PROPERTY TAX ON  
UNDEVELOPED LAND**

This tax is levied annually with respect to the holding of any undeveloped land situated in France, except for that entitled to permanent exemption (public estate) or temporary exemption (various incentives to promote agriculture or reforestation).

As with tax on developed land, the person liable is normally the owner of the property on 1st January of the year of taxation.

The assessment basis is the land register income, equal to 80 % of the land register rental value as regularly updated by the authorities.

As with other taxes, the amount of real property tax on undeveloped land is obtained by multiplying the land register income from each property by the tax rate voted for by each relevant local authority for the year concerned.

In 2003, the revenue amounted to € 0.9 billion. The expected revenue for 2004 is € 0.92 billion.

<p style="text-align: center;"><b>CHAPTER 3</b></p> <p style="text-align: center;"><b>RESIDENCE TAX</b></p>
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Sufficiently furnished housing premises and their outbuildings (gardens, garages, private parking space) are subject to residence tax (i.e. dwelling tax). This tax is chargeable to anyone who, on 1st January of the year of taxation, has available to him or her taxable premises in the municipality, irrespective of his or her status (owner, tenant, free occupier).

The tax is based on the land register rental value of housing premises determined by surveys of developed land, updated by the authorities. For housing premises used as the taxable persons' main home, this rental value is subject to compulsory reliefs for dependants or to optional reliefs.

The amount of the tax is obtained by multiplying the assessment basis by the rate voted for by each relevant territorial authority for the year concerned.

Modest persons, as defined by law, may qualify for an exemption or an automatic relief, wholly or partly, from residence tax on their main home.

Similarly, under certain conditions, the residence tax is capped depending on the income.

In 2003, the revenue amounted to € 12.12 billion. In 2004, it amounted to € 12.70 billion.

**CHAPTER 4****BUSINESS TAX***Taxe Professionnelle*

Business tax (taxe professionnelle) is chargeable annually to corporate bodies or individuals habitually carrying on business in France as self-employed.

Various exemptions are provided for. They may be permanent (activities carried on by the State, local authorities and public establishments, agricultural activities and organisations, private schools, certain small traders, press, etc.) or temporary (exemptions granted as part of the town and country planning, urban policy or to promote new or innovative companies).

The assessment base of the tax business consists in all cases of the rental value of fixed assets that are liable to real property tax and that are available to the taxpayer at the end of the last but one calendar year preceding the year of taxation.

Since the removal of the salary part, which became final in 2003, this base has been completed by the only value of equipment and movable property, which have been available to the taxpayer for the same period of time. However, two categories of taxpayers are not taxed on their equipment and movable property and they are, on the one hand, sedentary taxpayers whose annual receipts do not exceed € 61 000 in the case of service provision and € 152 500 in the other cases and, on the other hand, those who receive professional income (*bénéfices non commerciaux*), trading agents, business agents, who employ less than five people and are not liable to company taxation.

For this second category of liable persons (professional income and equivalent), the second base component is a portion of the receipts (10 % before 2003, 9 % in 2003, 8 % in 2004).

Thus established, the assessment base is further reduced. Such reductions may be limited to certain persons liable (small traders, reductions for enterprises carrying on part of their business outside France) or may apply to all persons liable (general relief of 16 %) or else decided by local authorities (relief on tax assessment base for press distributors).

The tax is assessed in every municipality where the person liable has premises or land available to him.

The amount of business tax is obtained by multiplying the base by the rates voted by each local authority receiving the proceeds.

Rates vary within the limits set by national law according to the decisions of the various local authorities or organisations. In addition to the amount of business tax itself, management costs received by the State (8 % of the amount of tax), additional taxes (relating to costs for chambers of commerce and industry and guilders) and possibly the national revenue-sharing amount as well as equipment special taxes to finance land-property public establishments may be added.

All persons liable are subject to a minimum business tax corresponding to the amount of residence tax paid the year before for a reference dwelling used by the council.

Several relief measures are provided for, such as reduced activity relief or capping the amount of tax in relation to the added value made by the enterprise during the year for which the business tax is payable. Reliefs are borne by the State.

Concerning the main relief, i.e. the one related to added value, the maximum rate is 3.5 % for enterprises whose turnover for the taxation year is less than € 21 350 000; 3.8 % for those whose turnover is between € 21 350 000 and € 76 225 000; and 4 % for those whose turnover exceeds € 76 225 000. The notion of added value with respect to business tax is different from the one applying to VAT : for the business tax capping, it is the difference between the production and the consumption of goods and services from third parties, with some reprocessing concerning aids and rentals.

Moreover, the business tax due by enterprises whose turnover is higher than € 7 600 000 is at least equal to one time and a half the added value produced during the taxation year. Added value is determined as in tax capping. The additional taxation thus determined is a revenue for the State general budget.

Lastly, awaiting to introduce the business tax reform wanted by the President of the French Republic in January 2004, there is a relief of business tax for assets created or bought new between 1<sup>st</sup> January 2004 and 31 December 2005 relevant of accelerated depreciation until tax return for 2007. Companies which the amount of business tax in relation to the added value can benefit of an increase of relief.

In 2003, the revenue of business tax amounted € 23.39 billion. In 2004, it amounted € 24.26 billion.

<p style="text-align: center;"><b>CHAPTER 5</b></p> <p style="text-align: center;"><b>OTHER LOCAL TAXES</b></p>
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### **I - ADDITIONAL TAXES**

Municipalities operating a household refuse collection service may introduce a household refuse collection tax. Where such operation is transferred to an intercommunal co-operation public organization, the latter may introduce such tax where it operates at least the collection service. This tax is assessed on the land register income used as an assessment basis for real property tax on developed land (exempted or not).

There are also taxes relating to the charges and costs of chambers of agriculture, chambers of commerce and industry, and guild chambers which are collected for appropriation to these bodies.

### **II - SPECIAL COUNTRY PLANNING TAXES**

Special country planning taxes are collected for appropriation to a region or to a town-and-country planning public agency. They are chargeable to all persons subject to local taxes within a given area and computed on the same assessment basis.