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FLASHNEWS

EXIT TAX (2019 FRENCH FINANCE ACT)

Dear partner,

Since 2011, when a person's tax domicile has been transferred outside France, this has resulted in income tax and social charges being levied on unrealised capital gains with deferred taxation ("Exit Tax"). This measure was initially intended to prevent tax exiles.

The conditions to be subject to the Exit Tax are as follows:

- You must have been a French tax resident for at least 6 years during the 10 years prior to the transfer abroad,
- You must hold equity instruments, securities or rights with a combined value exceeding 800,000 euros or representing at least 50% of a company's corporate profits.

The arrangements put in place in 2011 made a distinction when your domicile was transferred to a European Economic Area ("EEA") member state or to a country outside the EEA.

In the first case, the law included an automatic tax deferral without having to set up a guarantee: only an annual return needed to be submitted. The tax mechanism was only triggered if securities were sold within 15 years of the relocation (tax relief period).

In the second case, the relocation outside the EEA resulted in any unrealised capital gains being taxed immediately (unless a deferral was granted upon specific request) at a rate of 12.8%, in addition to social charges of 17.2%.

The 2019 French Finance Act[1] amends the measures in place with a view to establishing them as "specific anti-abuse arrangements" targeting flagrant cases of tax optimisation. The new arrangements apply to tax domicile transfers taking place after 1 January 2019.

1- 2019 Finance Act no. 2018-1317 of 28 December 2018

It specifically targets sales made shortly after leaving France to avoid optimisation practices based on short-term transfers abroad to realise capital gains before returning to France. Today, the tax relief period is reduced to 2 years for tax payers whose total securities are valued lower or equal to 2.57 million euros and to 5 years for taxpayers whose total securities are valued at over 2.57 million euros.

In addition, the automatic deferral is now also applicable in case of a transfer of the tax residence to any state that has signed an administrative assistance agreement with France, in addition to the transfer to an EU member state. However, this deferral remains exclusively on request for transfers to any other state or territory (non-cooperative jurisdictions, states outside the EU that have not signed the required agreements).

Life insurance is still excluded from the scope of the new Exit Tax arrangements and is therefore still an essential wealth management solution in a context of international mobility.

For any questions related to this communication, please get in touch with your usual contacts.

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