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GTN Alert – October 2017

France - New Withholding Tax System delayed until 2019

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Introduction

The French Finance Act for 2017 was adopted on December 29, 2016 introducing a new withholding tax system coming into force as of January 1, 2018. **By the decree N° 2017-1390, on September 23, 2017, the implementation of the French withholding tax system on salaried income was officially postponed to January 1, 2019.**

According to the Minister of Public Affairs and Public Accounts, proposals on "alternatives to the withholding tax reform currently provided by the law" will be made by the Government and will be communicated in due course.

Currently, French tax residents file an annual income tax return and pay their income tax a year after the income was received (e.g., for income received in 2017, the income tax is paid in 2018).

As a result of the delay in implementing the new French tax law, French tax residents will be subject to a monthly withholding tax on their 2019 income beginning January 1, 2019 rather than paying the 2019 income tax when they file their 2019 tax return in 2020.

Nature of income subjected to withholding tax

The scope of income subjected to the new withholding tax system covers most categories: employment income, pensions, replacement income (e.g., unemployment benefits, sick pay), annuities, self-employment income (e.g., industrial and commercial, non-commercial, agricultural) and rental income.

Certain types of income will not be subject to this withholding tax requirement, in particular:

- Gains derived from qualified stock-option and free share schemes;
- Income paid to non-resident taxpayers already subjected to a withholding tax obligation;
- Profit-sharing and incentive plans;
- Capital gains;
- Investment income (already subject to a different tax withholding process).

The payer of the withholding tax

For salaried employees of French companies, the tax will be withheld by the French employer, based on a specific rate.

For non-salaried income and employees of foreign companies, the tax will be directly withheld from the personal bank account of the taxpayer if they are a French tax resident.

Rates

The taxpayer can choose one of the following three options to determine the withholding tax rate:

- The average income tax rate that was applied for the individual taxpayer during the previous calendar tax year;
- In the absence of the known tax rate, a “neutral rate” may apply;
- Or, if certain conditions are met, the withholding basis or rate can be chosen by the individual taxpayer.

In the last two cases, if tax computed in the return is higher than the amount of tax withheld; the taxpayer will be required to pay the balance due to the French tax authorities before the end of the year. In case of non-payment of any balance due, penalties may apply. If the tax withheld is more than the tax computed in the return, the French tax authorities will refund the excess.

Income tax return

There will still be an obligation to submit a yearly income tax return in the year following the year in which the income was received. For example, the tax return for income received in calendar year 2018 would be filed in early 2019.

Transitional year: a tax exemption on the regular income earned in 2018

In switching from a self-assessment to a pay-as-you-earn system, French taxpayers would have been liable to a double tax charge in 2019:

- They would have had to pay their 2018 income tax on the income earned in 2019, and
- They would have been subjected to the withholding tax on the 2019 income in 2019.

To avoid this double tax payment in one calendar year, the French government will apply a tax credit on regular income earned in 2018, thus eliminating any income tax on the 2018 regular income. The 2018 income tax return will still be filed in 2019 to determine the income tax on all income. Even after the credit is applied, certain exceptional income may result in income tax being due.

Future Tax Filing Timeline

2018

April-June

Submit your individual tax return for 2017 income.

Summer

You will receive your withholding tax rate. However, you can choose a neutral rate.

October

Your chosen withholding tax rate is sent to your employer.

2019

January

Tax is automatically withheld from your salary every month and its amount is included on your pay slip.

April-June

You submit your tax return on 2018 income.

September

Your 2019 withholding tax rate is based on your 2018 tax situation.

2019

April-June

You submit your tax return on 2019 income. The Tax Administration calculates your 2019 income tax.

Summer

If the total amount withheld is higher than the tax due, you get a tax refund in August

September-December

If it is lower, you should pay the balance during the 4 last months of the year.

For further information on this newsletter, please contact Elisabeth Toffaloni at +33 (0)1 55 92 52 15 or etoffaloni@globaltaxnetwork.fr.

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