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French Finance Bill for 2018 – Changes Impacting High Net Worth Individuals

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The French finance bill for 2018 (the "Bill") enacts several tax changes announced by President Emmanuel Macron. While the Bill contains significant changes impacting corporate and individuals' taxpayers, this overview is intended to highlight only those which are likely to impact high net worth individuals and families.

French Wealth Tax

The French Wealth Tax ("ISF") has been replaced by a new wealth tax on real estate called "IFI" (Impôt sur laFortune Immobilière).

The IFI is limited to French and foreign real estate held directly or indirectly. Non-French tax residents will be liable for IFI only on real estate directly or indirectly owned in France

In relation to indirect ownership, the former ISF used to apply only to French real estate companies held by non- French resident individuals, i.e. companies predominantly invested in French real estate (specifically, companies for which more than 50% of their assets were French real estate assets). Under the ISF regime a non-French resident only had to declare French real estate assets for ISF purposes. Companies with less than 50% of their assets invested in real estate were out of the scope of the ISF.

All real estate assets are in the scope of the IFI, whether held directly or indirectly through companies, and regardless of whether said companies qualify as real estate companies under the above definition.

The Bill provides some limitations in the scope of the tax. Exempt assets include:

- Real estate which is not affected to the business of operating companies;
- Participations of less than 10% in an operating company;
- Holdings of less than 5% in a SIIC (listed real estate company);
- Holdings of less than 10% in an OPC (investment companies) when such OPC is vested for less than 20% in real estate.

These changes in the definition of “real estate assets” also have adverse effects on the French trust filing obligations. Families managing their estate through trusts investing in companies holding French real estate should assess their potential IFI exposure.

The Bill also limits the deduction of liabilities related to the real estate assets held

Third party debt is deductible from the real estate’s value, with some limitations:

- *In Fine* or bullet loans are treated as depreciable loans for IFI purposes (computation of theoretical annuities); and
- If the total taxable assets are worth more than 5 M€ and the related debt amounts to over 60% of the taxable total value, only 50% of the debt exceeding this threshold is deductible for IFI purposes.

Flat tax on capital income

The Bill implements a 33% (or 34%) flat tax on capital income (i.e. on capital gains on movable assets and/or on interest and dividends).

For French tax residents, the 30% flat tax comprises:

- 12.8% for income tax
- 17.2% for social contributions (CSG, CRDS, …)
- 3% or 4% for CEHR (contribution for high earners)

For non-French tax residents, if there is a withholding tax on said revenues, its rate is capped at 12.8% (subject to the more favorable provision of a double tax treaty with France).

Specific social contribution called “PUMa Contribution”

The PUMa contribution has been implemented to finance universal French healthcare. This contribution is only applicable to French tax residents deriving almost exclusively passive income. They are now liable for the PUMa Contribution at a rate of 8% on such passive income. The contribution is not capped.

In order to become liable for PUMa Contribution a French resident has to earn:

- Less than 3,922 € of active income, and
- More than 9,807 € of passive income.

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