

TAX FOCUS

Non-French tax residents will be impacted by the reform of the French real estate wealth tax from 1 January 2024.

In line with its reputation in tax matters, France has once again amended the rules applicable to the real estate wealth tax (hereinafter referred to as the «IFI»).

As a reminder, since 1 January 2018, France has replaced a general wealth tax («ISF») with a tax strictly dedicated to property assets, whether held directly or through entities, whatever their legal form (non-commercial real estate companies, French or foreign commercial companies, trusts or foundations).

Unless an international tax treaty applies, non-residents of France who hold real estate assets in France, whether directly or indirectly, fall fully within the scope of the IFI and are taxed in accordance with ordinary law.

When buying a property in France, a foreign resident is very often advised to make the purchase under cover of a holding vehicle with bank debt or a personal loan taken out by the beneficial owner in the form of a shareholder's current account. These types of structuring of property acquisitions can help to optimise the IFI tax burden and reduce the tax base of the assets held for any gift and inheritance tax.

The new provisions introduced by the Finance Act 2024 provide a framework for the rules previously applicable for determining the value of shares in a real estate company subject to the IFI.

The legislator's idea was to apply the same rules to company shares as those that apply to property owned directly by taxpayers, by taking into account only the debts relating to the property for valuation purposes. In other words, the avowed aim of the French legislature was to put an end to tax optimisation opportunities and thus put direct and indirect ownership of taxable property assets on an equal footing.



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To avoid certain particularly disadvantageous situations, a safeguard clause has been introduced to ensure that the restatement of debts does not result in the IFI taxpayer's tax base being higher than the real market value of the corporate rights.

This measure, which is particularly technical, could turn out to be either beneficial or disadvantageous in each individual case. It will therefore require each taxpayer to carry out a precise analysis of his or her situation on 1 January 2024 (for submission of the IFI return as at 15 May 2024).



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