

# TAX FOCUS

## France further reinforces its anti-abuse tax arsenal

The French Finance Act for 2024 has introduced a number of new measures, particularly in the area of international taxation. It has further reinforced an already particularly repressive anti-abuse provision known as «Article 155 A» (because it is codified under this article in the French General Tax Code).

Essentially, the purpose of Article 155 A is to dissuade artists and sportsmen, and now increasingly company directors and managers, from localising their remuneration in companies domiciled outside France.

Under this provision, amounts received by a foreign company for services rendered by an individual resident in France are taxable in France in the hands of the latter, if (cumulative conditions):

- The person providing the service directly or indirectly controls the foreign company;
- The company does not carry on a predominantly industrial or commercial activity (as compared with service activities);
- The company is established outside France where it is subject to a preferential tax regime (i.e. currently a corporate tax rate of less than 15%).

It should be noted that this regime also applies to individuals who are not resident in France and who provide services in France through a foreign company.

The Administrative Supreme Court (Conseil d'Etat) recently decided that Article 155 A did not apply to royalties for the granting of image rights or trademark royalties received through a foreign company, since they did not constitute remuneration for a service rendered (CE, 8 June 2020, Vuarnet).



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In order to neutralise this trend in case law, the French legislator has extended the scope of Article 155 A to «*the commercial exploitation of rights attached to the image, name or voice of one or more persons, to the use of copyright or related rights or to industrial or commercial property or similar rights, rendered or granted*».

This new provision makes rights to use the name and image of sportspersons, as well as rights to use trademarks, logos or patents, taxable in France, even if there is a tax treaty in place. It applies to income received from 1 January 2024.



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