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CONSEQUENCES AND LEGAL IMPLICATIONS OF BREXIT – ENHANCED IMPATRIATE INCENTIVES IN FRANCE

On 23 June 2016, the UK electorate voted to leave the European Union. This unexpected outcome marked the beginning of a period of transition for the UK which is accompanied by great uncertainty and raises many questions regarding the legal environment for companies and individuals in the UK.

For enterprises that decide to make use of the time before the effective exit from the EU to reorganise their structures, the question of movement of individuals will necessarily come up in the context of their reorganisation plan.

With this in mind, the French Prime Minister, Manuel Valls, announced on 6 July 2016 that the specific tax regime in favour of impatriates would be substantially enhanced in order to improve the attractiveness of Paris and "build the financial capital of the future".

The purpose of the impatriates regime is to ease the transition between the two tax systems by granting a favourable tax regime to individuals moving to France for work, for professional and passive income as well as French wealth tax.

This Client Alert proposes to give a high-level view of the main features of the current impatriate tax regime **(1)** before presenting the adjustments announced by the French Prime Minister in order to encourage impatriation **(2)**.

1. THE CURRENT IMPATRIATE TAX REGIME

In order to qualify for the impatriates regime, individuals must:

- Work as an employee (*salarié*) or corporate executive (*cadre*);
- When still living abroad, be recruited by a French enterprise or be assigned by a foreign enterprise to its French affiliate;
- Not have been tax residents in France in the five years preceding the year in which they take up their position in France.

The impatriates regime offers a favourable tax regime as regards income tax and wealth tax.

The tax exemptions described below are applicable until 31 December of the fifth year following commencement of employment in France.

1.1 Professional income exemption

Full income tax exemption is available for income from professional activities consisting in:

(a) Additional remuneration received in consideration of the activity performed in France (impatriation bonus). The exemption applies either to the effective amount of such bonus or, for persons recruited directly from abroad and upon election, to a flat-rate amount equal to 30% of their total remuneration;

(b) The fraction of their remuneration related to work trips abroad.

Certain limitations apply to this tax exemption. The impatriate may choose between either an overall limitation equal to 50% of the total remuneration received or, with respect to item (b) alone, a limitation equal to 20% of the remuneration in respect of work performed in France.

1.2 Investment income exemption

The following investment income from non-French sources benefits from a 50% income tax exemption:

- Dividend income, interest income and life-insurance income paid by a non-French resident;
- Capital gains upon the sale of shares held by a non-French-resident custodian or issued by a non-French-resident company;
- Income derived from intellectual property rights paid by a non-French resident.

In each case, the non-French-resident must be resident in a State that has concluded with France either a tax treaty containing an administrative assistance clause or a tax information exchange agreement.

This 50% exemption applies in addition to the ordinary allowances. Thus, after deduction of an allowance of 50% on gross income, dividends benefit from a further allowance of 40% and capital gains from an allowance based on the holding period for the shares, of up to 65% after eight years (and even 85% for securities in certain types of SME).

1.3 Wealth tax exemption

Under this favourable regime, individuals moving to France are exempted from wealth tax on their personal assets located outside of France.

2. THE ENHANCEMENTS ANNOUNCED TO ENCOURAGE IMPATRIATION

The French Prime Minister has announced a series of new measures in order to encourage the transfer of individuals to France:

(a) The duration of the impatriation regime is to be extended from five to eight years as from commencement of work in France;

(b) The impatriation bonus is to be exempted from the French payroll tax (*taxe sur les salaires*). In practice, this measure will benefit financial institutions, which are largely subject to such tax;

(c) A specific “one-stop shop” (*guichet unique*) is to be created so that individuals moving to France can deal with a single contact for information and assistance with respect to their transfer. This information desk would provide them with indications on the tax regimes applicable, for instance.

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