

The following notes are restricted to tax and Social Security topics of general interest to private individuals and exclude measures for businesses, apart from *Micro-entreprises* or *Autoentrepreneurs*. They are based on the **Loi de finances 2011** and **Loi de finances rectificative 2010** now passed into law by both houses and verified as being compliant with the Constitution. You will see that there is a lot of bad news due to the current *politique de rigueur*.

More measures are in the pipeline re the tax shield, the wealth tax and new taxation of investment income and gains **expected for June 2011**. We will update you on these in due course.

We do our best to answer all your questions as fully as we can. We hope that you find these comments and the attached links helpful towards achieving this.

“Nul ne s’est jamais perdu dans le droit chemin” (Goethe)

INCOME TAX (*Impôt sur les Revenus*)

2010 INCOME TAX SCALE RATES (*BARÈME PROGRESSIF*)

The band limits and certain thresholds are adjusted by 1.5% for index linking (price index excluding tobacco). The tax rate in the highest band increases by 1% from 40 to **41%**.

SINGLE PERSON (1 part)			MARRIED or PACS COUPLE (2 parts)		
Band of income		Rate	Band of income		Rate
Less than	€5,963	0 %	Less than	€11,926	0 %
€5,963	to €11,896	5.5 %	€11,926	to €23,792	5.5 %
€11,896	to €26,420	14 %	€23,792	to €52,840	14 %
€26,420	to €70,830	30 %	€52,840	to €141,660	30 %
€70,830	Upwards	41 %	€141,660	to Upwards	41 %

OPTIONAL INCOME TAX SET RATES (*PRÉLÈVEMENT FORFAITAIRE LIBÉRAIRE*)

From 1/1/2011, the fixed rate applicable to interest and dividend income at your option under *Prélèvement Libératoire* is increased by 1% to **19%**.

Interest /Dividends		Gains on life assurance policies		
2010	2011	2010-2011 (no change)		
		< 4 years	4-8 years	> 8 years
18%	19%	35%	15%	7.5%

ADDITIONAL ONE-HALF SHARE COUNTED TO A PERSON LIVING ALONE WHO HAS RAISED A CHILD

Since 2009, only those who raised a child as a single parent for at least 5 years qualify for this ½ part, provided they live alone and have no dependent children.

The transitory measure in favour of those who benefited from this ½ part for their 2008 income tax but did not raise a child alone during 5 years will continue to apply until 2012.

CHANGE OF MATRIMONIAL STATUS

2010 is the last year in respect of which three income declarations are required if your matrimonial situation has changed. Due to the way the tax bands work, the year of a change in matrimonial status usually worked out quite nicely in fiscal terms. From 2011, if you get married, it will be for romantic reasons only!

New couples will file only one joint income declaration for the year of their marriage or civil union (*PACS*). At their option, they can be taxed separately, subject to justifying their share of joint income (by default 50/50). In the event of separation, divorce or termination of a *PACS*, the submission of two separate declarations of income is required for the year that the change takes place.



LUMP SUMS FROM RETIREMENT SCHEMES

Until now, the taxation of lump sums paid by a foreign retirement scheme to a resident of France was a grey area not well provided for in French law. Pension payments in France are by definition periodical and recurrent. French pension plans do not pay lump sums, except in respect of pension rights too small to generate periodical payments (in which case the lump sum has always been taxable as pension income). The Plan d'Epargne Retraite Populaire (PERP) was changing this and the situation has now been clarified.

From 1/1/2011, lump sum payments under a retirement plan, whether French or foreign, are subject to income tax under specific modalities. Any payment received from a retirement scheme paid totally or partially in capital is subject to income tax (CGI art 79, 2e al. nouveau).

A specific 'quotient de 15' option is created for payments above €6,000, provided you can justify that the contributions paid into the retirement scheme, including by an employer, were tax deductible or made from tax-free income. Under that option, income tax is calculated by adding 1/15th of the net income (after 10% abatement for a pension) to the global taxable income and by multiplying by 15 the corresponding additional tax. The resulting extra tax is payable with the income tax of the year in which the lump sum is taken.

When you justify that the contributions made were not tax deductible or not made with tax-free income, then the element of gain attached to a capital payment under a foreign retirement plan is taxable as investment income. The 'quotient de 15' option is not available for such gains.

INCOME DECLARATION DEADLINE IN CASE OF DEATH

From 2011, the requirement to submit a deceased person's income declaration within 6 months of the death is eliminated (e.g. for a death taking place on 10/06/2011, the inheritors will have until the end of May 2012, instead of 10/12/2011, to submit the deceased's 2011 income declaration). This change is only for income declaration. The wealth tax declaration of a deceased person in particular must still be submitted within 6 months.

GIFTS TO FOREIGN CHARITIES AND GENERAL UTILITY BODIES

Following jurisprudence rendered by the European Court of Justice, gifts made from 1/1/2010 to a body established in another European Union member State (plus Iceland and Norway), are eligible for income tax and wealth tax reductions, subject to the same conditions applying to charitable and general utility bodies in France. The onus is on the tax payer to demonstrate that the foreign body satisfies the requirements imposed by French legislation on similar French bodies.

Gifts up to the limit of 20% of your taxable income qualify for a 75% (up to €521) or 66% tax reduction when made to charities and organisations of public utility, including not-for-profit educational, scientific, artistic and sporting bodies, or even political parties. Gifts over the limit of 20% of your taxable income can be carried forward 5 years (NB tax relief in excess of your tax liability cannot be repaid or carried forward).

TAX REDUCTION FOR DOMESTIC EMPLOYEES

This 50% tax credit escaped the restricting measures. Expenses for home help remain capped at €12,000 per household, plus €1,500 per child or member of the household over 65, up to €15,000 maximum. The first year you claim this tax reduction, this limit is increased to €15,000/€18,000 maximum in case of direct employment (i.e. not via an agency). For households including an invalid, the overall limit is set at €20,000.

The 50% tax reduction may be repaid when it exceeds the income tax liability if the members of the household are working or include an invalid. You may also be entitled to a reduction in or an exemption from employer's social levies in certain situations (e.g. 70 years old+ or invalidity).

When you use an agency, the problem was raised of pre-paid hour vouchers, paid to the agency but never paid to an employee. Starting with the taxation of 2010 income, the tax payer will have to justify the number of hours paid to the employee so that the tax reduction is calculated exclusively on the hours worked.

CAPPING OF TAX INCENTIVES AND 10% GLOBAL REDUCTION

As each year since its entry into force, the overall annual tax benefit resulting from so-called *niches fiscales* is revised downwards. For taxation of 2011 income, the ceiling is set at **€18,000 + 6%** of taxable income (against €20,000 + 8% for investments initiated in 2010 and €25,000 + 10% for 2009 investments).



Full information regarding registration, payment of social levies, tax reduction but also work contracts, collective agreement for domestic employees, SMIC, etc... is available on the CNCESU website www.cesu.urssaf.fr.

In addition, from 2011, many *niches fiscales* will suffer an **overall 10% reduction**, **except** for the tax credit for **domestic employees**, **childminding expenses** and certain rental investments in social housing in overseas territories.

This 10% reduction measure will apply to investments and expenditure made from the 1st of January 2011 relating in particular to **ecological home improvements**, Scellier schemes (investment in new buy-to-rent property) and **investments in small and medium sized companies** directly or via FCPIs (fund specializing in innovative companies) or FIPs (*Fond d'Investissement de Proximité*). All the tax credit rates as well as ceilings for maximum deductions (but not the ceiling of expenses) concerned should therefore be multiplied by 0.9 and rounded down.



These tax credit rates have to be multiplied by 0.9 and rounded down to take into account the 10% reduction.

TAX CREDIT IN FAVOUR OF SUSTAINABLE DEVELOPMENT

The tax credit for expenses improving the environmental quality of lodgings concerning the main residence and, subject to certain conditions, properties that are let out, is again revised downwards. With effect from 29/09/2010, **solar energy equipment**, previously eligible for the 50% tax credit, qualifies for a **25% tax credit** (rate already applicable to heat pumps, insulation materials, thermostats, rain barrels etc...).

In 2010, **wood stoves** are eligible for a 25% tax credit except in cases of replacement of similar equipment where the 40% rate continues to apply. The administration has confirmed the exclusion of the ceramic parts of an Alsatian stove for the tax credit calculation.

New equipment qualifying in 2010 for 40% tax credit are **thermodynamic water heaters** (heat pumps, other than air/air, dedicated to the production of hot water) as well as the installation costs of geothermal heat pumps.

The tax credit for double glazing and condensation boilers is 15% (against 25% in 2009). **Entrance doors** leading outside (not on a landing), previously excluded, also qualify in 2010 for 15% tax credit.

The increase of rates applicable to certain equipments installed within the first 2 years of acquisition in houses built before 1977 has been eliminated.

TAX CREDIT FOR INVESTMENTS IN SMALL AND MEDIUM ENTERPRISES

Persons investing in the share capital of unquoted European small and medium enterprises, directly or via a holding or an eligible investment fund (FCPI or FIP), benefit from a 25% income tax reduction under certain conditions (such as keeping the shares 5 years minimum). The tax reduction becomes 22% as of 2011 investments, further to the 10% reduction mentioned earlier.

The scheme was re-centred on capital risk resulting in the exclusion of certain activities such as real estate activities (*marchand de biens*, estate agents, property developers...), activities with guaranteed income resulting from a regulated tariff (such as solar or wind energy production), financial activities or companies whose assets represent mainly works of art, antiques, precious metals, wine (except wine merchants) or racing horses. Measures to prevent the many abusive use of the scheme have been tightened.

INCOME TAX CREDIT ON MORTGAGE INTEREST TO BUY A MAIN HOME

This tax credit is now abolished and replaced by a new loan at zero interest rate (*prêt à taux zero*). This elimination is effective:

- When the loan offer was made before 1/1/2011, for any acquisition made after 1/10/2011;
- When one of the loan offers was made after 1/1/2011, for all acquisition.

This tax credit continues to apply to taxpayers who were already benefiting from it.

TAX CREDIT ON DIVIDENDS

The small tax credit available on French and foreign dividends (€115 for a single person or €230 for a couple) is abolished starting with the taxation of 2010 income.

From 2010, dividends are therefore taxable either

- at the set rate under *Prélèvement libératoire*, without any abatement;
- at the progressive scale rate after a 40% abatement and an annual set abatement of € 1,525 (single person) or € 3,050 (for a couple).

Social contributions are due on dividends before any abatement. Part of the CSG is tax deductible in case of taxation under the progressive scale.

SOCIAL CONTRIBUTIONS (CSG, CRDS, PS)

2011 SOCIAL CONTRIBUTIONS RATES

2011 Prélèvements Sociaux					
Base	CSG	CRDS	Prélèvement Social (P.S.)	Contributions additionnelles au P.S.	Total
Investment income/gains	8.2%*	0.5%	2.2%	1.4%	12.3%
Pensions	6.6%	0.5%	n/a	n/a	7.1%
Salaries	7.5%	0.5%	n/a	n/a	8%

*A proportion of this is tax deductible for income subject to progressive tax rate (excluding capital gains or income subject to *prélèvement libératoire*).

APPLICATION TO LIFE INSURANCE GAINS

Capital gains within a life insurance investment are subject to 12.3% social contributions. However, for gains on any unit-linked investment funds, this charge will only become payable when you take money out, or on death. On the other hand, the interest earned on any investment in Euro funds is subject to social contributions at source, whether or not withdrawals are made, from the year of inscription. This is also the case, starting from 1/7/2011, for the Euro fund element of a *Multisupport* life insurance contract. Obviously, no further social contributions will be payable on withdrawals from such contracts.

APPLICATION TO FOREIGN SOURCE INCOME

There is always considerable discussion and speculation in the English language press regarding application of social contributions to foreign source income received by a resident of France. The situation under French law is as follows:

- Investment income and capital gains from all sources are liable to all of these taxes (total 12.3% in 2011), including annuities or life assurance gains. The E.U. has never disputed this and has no plans to do so.
- CSG and CRDS may apply to foreign pensions and salaries ONLY IF the recipient is a resident of France who receives medical benefits paid for by France. Those who are covered for health via certificates E121 or E106 (now referred to as form S1), thus being at the charge of their national Social Security insurance, are exempt from CSG/CRDS on their foreign source pensions. The same exemption applies to expatriates who had to take up private health insurance.
- Recipients of health care under one of the French mandatory schemes (CMU, RSI or Regime General) are liable to CSG&CRDS on all their foreign source earnings (pensions and salaries).
- When applicable, CRDS on foreign pensions is assessed via your income declaration and payable to the Trésor Public with the social contributions on your investment income.



- CSG on foreign-source salaries for duties performed in France is supposed to be deducted at source by the employer and paid to URSSAF.
- As far as we know, CSG on foreign pensions received by a resident of France whose health cover is at the expense of the French Social Security is currently not recovered by URSSAF.
- CSG and CRDS should not apply when a pension is taxable only in another state under a double taxation agreement with France (e.g. UK Government service pension, US Social Security Administration Benefits).

CAPITAL GAINS TAX (CGT)

SUMMARY

	2010 disposals	2011 disposals
Real estate		
Exemption	Price < € 15,000 – main residence – properties owned 15 years	Price < € 15,000 – main residence – properties owned 15 years
'Taper relief'	10% p.a. after 5 year ownership	10% p.a. after 5 year ownership
Income tax	16%	19%
Social contributions	12,1%	12,3%
Capital losses	Not tax deductible	Not tax deductible
Shares and collective investments		
Exemption	If annual proceeds < €25,830	No exemption
'Taper relief'	1/3 p.a. after 5 years w.e.f. 2006	1/3 p.a. after 5 years w.e.f. 2006
Income tax	18%	19%
Social contributions	12.1% including on exempt gains	12.3%
Capital losses	Carried forward 10 years whatever the level of total proceeds against 2011-2020 capital gains	Carried forward 10 years whatever the level of total proceeds against 2012-2021 capital gains

ELIMINATION OF THRESHOLD FOR SECURITIES

From 1/1/2011, capital gains on the sale of securities and real estate properties alike are taxable at 19% plus 12.3 % social contributions (total : 31.3%).

The reporting exemption for disposals of securities under an annual threshold is eliminated. All gains on securities are subject to social contributions and income tax regardless of the annual level of proceeds. Correlatively, any loss can be carried forward 10 years against future gains, whatever the level of proceeds.

For 2010, in the case of disposals below the reporting threshold of €25,830, any gain is income tax free but remains subject to social contributions. Exceptionally, a loss carried forward from previous years utilized to offset an 'exempt' gain in 2010 will generate a 19% tax credit. Correlatively, a loss arising in 2010 on disposals below the threshold can be carried forward.

TAPER RELIEF FOR LENGTH OF OWNERSHIP OF SHARES

The 'taper relief' rule introduced in 2006 to encourage long term investment in shares is maintained unchanged. So the capital gain subject to income tax will be reduced by 1/3rd for each year the shares have been held after 5 complete years of ownership, resulting in total income tax exemption after 8 years. Shares held on or before 1/1/2006 are deemed to be held from 1/1/2006. Thereafter, shares are deemed to be held from 1st of January of the year of purchase. The first abatements should thus concern 2012 disposals of securities held since 2006 or earlier, with full relief after 2014.

For directors of SME's who sell their shares in the company when they retire, subject to certain conditions, the ownership is counted from the actual date of acquisition of the shares.



This taper relief concerns shares in companies with their head office in an EU member State. The company must be subject to the local equivalent of French company tax. Shares in investments funds and money market funds are not eligible.

Only income tax is concerned by this taper relief. Social contributions at 12.3% remain due on the whole gain. Moreover, the abatements will apply to both gains and losses alike, so after 8 years of ownership, there can be no loss to carry forward.

Years of ownership after 2006 *	1	2	3	4	5	6	7	8+
% relief for income tax only	0	0	0	0	0	33,33%	66,66%	100%

DISPOSALS OF SHARES WITHIN THE FAMILY GROUP

When members of a same family hold an important shareholding (over 25%) in a company subject to corporation tax, capital gains on disposal of shares within the family group are exempt income tax subject to certain conditions, including a commitment to keep the purchased shares at least 5 years (art. 150-0 A, 3 of the CGI). From 2011, this exemption is extended to companies subject to the local equivalent of French company tax with their registered office located in the European Economic Area (27 E.U. countries plus Norway, Island and Liechtenstein).

This exemption concerns only income tax and NOT the social contributions (12.3%). These exempt gains are taken into account for the calculation of the *Revenu Fiscal de Reference*.

10% ABATEMENT P.A. FOR GAINS ON REAL ESTATE PROPERTIES

For real estate properties, the 10% abatement for each year of ownership after the 5th year continues to apply resulting in total exemption of properties held more than 15 years. After fierce discussions, it was decided that social contributions would not apply to such exempt capital gains, at least until June 2011...

NON-RESIDENTS' EXEMPTION ON DISPOSAL OF THEIR FRENCH HOME

From 2011, a capital gain arising on the sale of a French secondary home held by a non-resident of France who is a national of the EEA is tax-free in the limit of 1 house only (instead of 2), subject to:

- having been a tax resident of France for at least two consecutive years at any time before the sale;
- the house being available for his own private use (not rented) from at least the 1st of January of the year preceding the year of the sale.



TAXATION OF GAINS ARISING ON DISPOSAL OF A UK PROPERTY

In accordance with the new UK/France tax treaty signed on 19/06/2008 and in force since 18/12/2009, starting with 2010 income, a capital gain arising on the sale of a property located in the UK may be taxed in France with a tax credit equivalent to any tax paid in the UK to eliminate double taxation.

We understand that the UK does not impose capital gain tax on individuals who are neither resident nor ordinarily resident in the UK (except if they return to live in the UK within 5 years of the sale). So in the absence of UK tax, no tax credit will be granted in France and French CGT will be entirely payable, subject to applicable relief and allowances. Thus no French tax is currently payable on a UK property held for more than 15 years or for a previous main residence, provided it remained vacant (not rented) and was sold within a year of departure from the UK.

For more details about the calculation of capital gains tax on real estate, please look on our website www.cabinet-henderson.com for our information note on that subject, updated with the Loi de Finances 2011 and Loi de Finances rectificative 2010.

WEALTH TAX

(Impôt de Solidarité sur la Fortune, ISF)



2011 THRESHOLD AND RATES

The announced abolition of wealth tax will not apply to 2011 ISF.

The 2011 taxation threshold for wealth tax has been increased to €800,000 and the band limits indexed as follows:

Net taxable wealth		Rate
Up to	€800,000	0 %
€800,000	to €1,310,000	0.55 %
€1,310,000	to €2,570,000	0.75 %
€2,570,000	to €4,040,000	1 %
€4,040,000	to €7,710,000	1.3 %
€7,710,000	to €16,790,000	1.65 %
€16,790,000	Upwards	1.80 %

EXEMPTION OF FOREIGN ASSETS

Residents of France are taxable on all their assets located in France and worldwide, in the absence of overriding international treaty provisions to the contrary. However, a 5-year exemption of foreign assets benefits those who transferred their tax residence to France **after 04/08/2008**, provided they were not tax resident during the 5 previous years. From the 6th year of residence onwards, wealth tax is payable on worldwide assets. The exemption period starts again if a person stops being a tax resident in France for 5 years and then comes back to live in France again.

Tax treaties between France and the United Kingdom, USA, Germany, Austria, Canada, Spain and Italy make a similar provision for a 5 year exemption of foreign assets, with renewal after 3 years (instead of 5) of losing French residency. UK nationals who became residents before the treaty was in force can benefit from foreign assets exemption for the remainder of the five year period.

TAX REDUCTION AND EXEMPTION FOR INVESTMENTS IN SMES

A wealth tax reduction is allowed for 75% of investments made before 13/10/2010, 50% afterwards, in E.U. unquoted small and medium sized companies (directly or via a holding company), subject to certain conditions and capping of total reduction. Subscriptions in investments funds such as *Fonds d'investissements de proximité (FIP)*, *Fonds communs de placement dans l'innovation (FCPI)*, *Fonds communs de placement à risque (FCPR)*, are also eligible for 50% wealth tax reduction, but only proportionally to the percentage of the fund invested in eligible companies. Until 2010, the remainder could be used to claim a 25% income tax credit available for such investments, but from 2011, that is impossible.

For 2011 wealth tax, the reduction applies to subscriptions made between 16 June 2010 and 15 June 2011. Such investments benefit from permanent wealth tax exemption.

Investment in eligible European SMEs	Wealth tax relief rate	Maximum reduction	Maximum investment
Subscription in capital of SMEs prior to 13/10/2010	75%	€50,000	€66,666
Subscription in capital of SMEs from 13/10/2010	50%	€45,000	€90,000
Subscription to a FIP/FCPI/FCPR pre 2011	50%	€20,000	€40,000
Subscription to a FIP/FCPI/FCPR post 2011	50%	€18,000	€36,000

TAX REDUCTION FOR GIFTS TO CERTAIN ORGANIZATIONS

The wealth tax can also be reduced by 75% of the amounts given to organizations acting in the domain of research, higher education or professional integration, or academic foundations (maximum reduction €50,000 reduced to €45,000 from 1/1/2011). From 2011, gifts in favour of similar bodies in the European Union, Iceland and Norway are also eligible for wealth tax reduction.

RULES APPLICABLE TO 2011 TAX SHIELD CLAIMS

During 2011, taxpayers can claim repayment of tax paid in excess of 50% of their 2009 income.

The tax payments taken into account are:

- 2009 income tax and social contributions, including deductible CSG, paid in 2010 via assessment or in 2009 under *prélèvement libératoire*;
- 2009 capital gains tax;
- 2010 wealth tax;
- 2010 *Taxe d'habitation* and *Taxes foncières* for the main residence, excluding the tax on *ordures menagères* and *Redevance audiovisuelle*.

This is to be compared with the 2009 NET global income, after tax abatements and deduction of CSG deductible.

The interest earned on life assurance contracts in Euros, subject to social contributions, must be taken into account even in absence of withdrawals. Holders of a *multisupport* life assurance contract can exclude the exempt interest earned on the Euro fund portion of their contract, not subject to social contributions, whatever the percentage of funds invested in units (previously 20% minimum).

Dividends paid during 2010 will be taken into account before any abatement.

Capital gains on share disposals will be taken into account after deduction of the year's losses only (meaning that losses carried forward from previous years will be re-integrated into the gains).

For those who became tax residents during 2009, foreign-source income realised before the permanent move to France is ignored. Any foreign-source income received after the date of installation in France is taken into account. When exempt by treaty, it is taken into account for the net amount, after deduction of the foreign income tax.



The 2009 record number of new businesses (580,200 according to INSEE, i.e. +75% compared to 2008) is largely due to the success of the *autoentrepreneur* regime, chosen by more than half the new businesses.

MICRO-ENTREPRISE / AUTO-ENTREPRENEURS

2011 THRESHOLDS AND TAX RATES

Type of Activities	Examples of activities	2011 Turnover Micro threshold	Pension fund	Social levies (Micro-social simplifié)	+ income tax option* (Total)
Sale of goods or provision of lodging (BIC)	Hotels, Gîte rural, B&B, meublé de tourisme, retailing	€ 81,500	RSI	12%	+1% (13%)
Services (BIC)	Personal services, hairdresser, builder, furnished letting	€ 32,600	RSI	21.30%	+1.7% (23%)
Services (BNC)	<i>Agent commercial</i> , home hairdresser	€ 32,600	RSI	21.30%	+2.2% (23.50%)
Professions Libérales (BNC)	Consultant, free-lance journalist, teacher, translator, photographer	€ 32,600	CIPAV	18.30%	+2.2% (20.50%)

*The income tax option is available in 2011 if your household's 2009 income is below €26,030 for a single person, €52,060 for a couple (€78,090 for a couple with 2 children etc.)

Each quarter (by the end of April/July/October/January), *autoentrepreneurs* declare their turnover (including any expenses invoiced to customers) for the previous quarter and pay the corresponding taxes at the above rates. The system is simple because you know immediately how much in the way of social levies and tax you really have to pay and don't have to expect any later adjustments. But it has its drawbacks, mainly because taxes are calculated on your takings, not on your profit.

From 2011, the quarterly declarations need to be submitted even if nothing was invoiced. After 24 consecutive months with zero turnover (8 quarters), you lose the benefit of the *autoentrepreneur* simplified micro-social regime and will have to de-register or pay on-account social levies with regularization the following year and minimum charges under the normal self-employed regime.

This simplified autoentrepreneur regime is ideal for those having a small activity income on top of a salary or a pension. It can also be a way into the health Social Security system – but it is not suited to all needs and professional advice should be sought.

From 2011, in addition to the above rates, *autoentrepreneurs* need to pay a contribution towards professional training. This will be calculated at a percentage of their annual turnover of:

- 0.3% for craft activities
- 0.1% for commercial activities
- 0.2% for services and non-commercial activities

Those with a business income (after micro abatements) of less than €4,740 are exempt. Payment modalities are to be clarified by the administration.

DUAL ACTIVITIES

In case of a dual activity (e.g. a builder billing material and labour) or if you carry out two different activities, the total turnover must not exceed the higher applicable threshold and the turnover relating to each activity must remain below its own threshold for the *autoentrepreneur* regime to apply.

The social levies rate corresponding to the principal activity applies to the total turnover. Thus the 21.3% rate applies to the total invoiced by a builder. Concerning the *autoentrepreneur* option for payment of income tax, you need to break down the turnover to apply the corresponding additional rate (e.g. +1% for supply of material, +1.7% for labour) to your turnover.

FIRST YEAR'S THRESHOLD

The above thresholds correspond to a full year of activity. So they need be adjusted proportionally to the duration of activity in the first calendar year.

N.B. Exceptionally this pro-rata rule did not apply to *autoentrepreneurs* who created their activity in 2009 or 2010 (art. 54 of law n°2010-1658 of 29/12/2010).

IF YOU EXCEED THE THRESHOLD

If your turnover exceeds the Micro thresholds in 2011, you may continue to benefit from the *autoentrepreneur* regime for the years 2011 and 2012 provided your turnover remains below a second threshold (set at €89,600 or €34,600 depending on the activity).

If you cross this second higher threshold:

1. you lose the benefit of the micro enterprise tax regime from the 1st of January of the year;
2. you must charge VAT from the first day of the month the threshold is crossed;
3. you will lose the benefit of the *autoentrepreneur* simplified social regime the following year;
4. the *autoentrepreneur* tax option for payment of income tax with the social levies will not apply for the year the threshold is crossed.

LOCAL BUSINESS RATE (COTISATION FONCIERE DES ENTREPRISES)

The CFE is calculated on the value of any property occupied by a business as at 1st of January. The rate of tax is set by each commune. There is a minimum tax due for any business which will range from €200 to €2,000 depending on location. *Autoentrepreneurs* benefit of an exemption of this tax for their 2 first full years of activity, provided they made the option for the simplified payment method of income tax. Thus an *autoentrepreneur* starting his activity after 1/1/2010 who has made the tax option will pay the CFE from 2013.

GÎTES, MEUBLÉS DE TOURISME AND CHAMBRES D'HÔTES

For tax purposes, furnished letting is treated in France as a commercial activity. It can be done as a micro-entreprise but a different tax treatment applies depending on the qualification of the rental activity.

Since 2009, in accordance with the tax law, the 71% Micro-BIC abatement for expenses applies only to the following furnished letting activities:-

- *gîte rural* registered with *Gîtes de France*;
- *meublé de tourisme* with a *classement* from the *Prefecture*;
- *chambre d'hôte* declared to the *mairie*.



Gîtes and B&B micro-entreprises, generally, are not registered with the self-employed social organizations, except when there are several gîtes. However the autoentrepreneur regime may be envisaged by those who need to enter the French Social Security system.



CMU is the national health insurance scheme applying to all permanent residents of France who are not already covered under a compulsory Social Security scheme in France or another European Union state through their present or past employment or self-employment.



In the absence of an official *classement* with either *Gîte de France* or the *Prefecture*, your *gîte* activity may qualify for tax purposes as **location en meublé non professionnelle** instead of *gîte/meublé de tourisme*. In that situation, the 50% abatement for expenses will apply under regime micro-BIC instead of 71%. A lower ceiling for total takings will also apply (€32,100 instead of €80,300 in 2010).

In our opinion, any holiday letting activity should qualify for 71% abatement, as it complies with the declaration to the *mairie* (form n°14004), mandatory since December 2009, which is the only requirement for *chambre d'hôtes*. In our experience, the non-resident tax office usually requires proof of a '*classement*' to justify the favourable tax treatment while other tax offices in rural areas may be more lenient. Our advice is to get a *classement* with the *Prefecture* which involves a control visit every 5 years. A website has just been launched by the administration to facilitate such formalities www.classement.atout-france.fr.

SOCIAL SECURITY CHARGES

EMPLOYMENT OR SELF-EMPLOYMENT INCOME

The place of payment of Social Security charges is governed by EU regulations, not by tax treaties. New regulations (CE) n°883/2004 and 987/2009 came into force in May 2010.

The general rule is that you can only be subject to Social Security in one Member State at any one time. Social Security charges should be paid in the country where you carry out your employment duties or, for the self-employed, where the centre of interest of your activity is located, unless you perform **substantial activities** in your country of residence. In such a case your Social Security charges will be payable where you are resident.

If you are resident in France but work mainly in the UK for instance, your Social Security charges are payable in the UK. If you work and live in France, you will pay Social Security charges in France. In addition, for employed individuals, your employer's liability will follow yours: if you work for a UK company, the company will be liable to the French Social Security charges – which are a lot higher than in the UK.

COUVERTURE MALADIE UNIVERSELLE (CMU)

CMU contributions cost 8% of 2009 *Revenu Fiscal de Référence* (RFR) exceeding €9,029, for the period from 1/10/2010 to 30/09/2011. RFR is shown on your annual income tax assessment and includes income taxed elsewhere by tax treaty. CMU contributions are payable quarterly to the URSSAF. They are tax deductible.

You need to have been resident for 5 years to be eligible, unless you were benefiting from CMU prior to 23/11/2007.

Private health insurance is mandatory for new residents who arrived after 23/11/2007 with no rights to free care under E106 or E121 certificates (now referred to as form S1), until they have been residents for minimum 5 years. Such private contributions are also tax deductible (NB top-up policies are never tax deductible).

OTHER TOPICS OF INTEREST

EURO EXCHANGE RATES

Legally the rates to employ for income declaration purposes are those prevailing at the time of each transaction. Daily rates can be found on www.banque-france.fr. The only exception is for the calculation of *frais reels* on salaries, where you can use of the average between the year N-1 and N year-end rates to convert the cost of expenses incurred abroad into Euros .

2010		2009	
Year end rate	Average rate	Year end rate	Average rate
GBP 1 = EUR 1.1617	GBP 1 = EUR 1.1660	GBP 1 = EUR 1.1260	GBP 1 = EUR 1.1229
USD 1 = EUR 0.7484	USD 1 = EUR 0.7551	USD 1 = EUR 0.6942	USD 1 = EUR 0.7196
CAD 1 = EUR 0.7504	CAD 1 = EUR 0.7331	CAD 1 = EUR 0.6610	CAD 1 = EUR 0.6311
AUD 1 = EUR 0.7613	AUD 1 = EUR 0.6937	AUD 1 = EUR 0.6247	AUD 1 = EUR 0.5663

REDUCED VAT RATE

European directive n°2009/47 of 5/5/2009 made permanent the application of VAT reduced rate on certain **labour intensive activities**.

So in France, VAT remains at 5.5% on the following services:

- renovations by artisans and contractors to residential properties over 2 years old;
- restaurants;
- personal services supplied by *entreprises agréées*.



The new UK-France tax treaty came into force on 18/12/09 and applies in France from the 2010 tax year. The main changes result from the new method of elimination of double taxation in France on income taxable in the UK. A tax credit corresponding either to the French tax or to the UK tax, depending on the nature of the income, now applies. This is less favourable than the previous exemption with progression method (règle du taux effectif). It also closed certain loopholes on UK properties' gains or airline pilots' salaries.

TAX TREATIES UPDATE

New tax treaties with Monaco, Malta and Georgia entered into force during 2010 (and will therefore apply with effect from 2011 income).

An amendment to the tax treaty with Singapore came into force in 2010.

In addition Tax Information Exchange Agreements (TIEA) came into force during 2010 with Antigua, Jersey, Guernsey, Isle of Man and Lichtenstein. TIEA are not double taxation agreement but they should enable exemption from French 3% real estate tax for entities established in such territories.

To claim 3% tax exemption, these entities need to file an annual return showing the chain of ownership to the ultimate beneficial owner and no entity in the chain should be located in a non treaty country.

The TIEA with Andorra and British Virgin Islands came into force in January 2011.

Pending agreements signed but not yet in force are the followings:

- Pending tax treaties: Hong Kong, Kenya;
- Pending amendments: Switzerland, Belgium, Luxembourg, Bahrein;
- Pending TIEA: Cook Islands, St Kitts & Nevis, British Virghin Islands, St Lucia, St Vincent & the Grenadines.

2011 DEADLINES

15/02/2011	1st payment on account of 2010 income tax (or 20/02/2011 for online payment)
03/05/2011	Submission of 2010 declaration n°2072 for SC/Is
15/05/2011	Submission of the declaration n°2746 re 3% tax on real estate held by a company
16/05/2011	2nd payment on account for 2010 income tax (or 21/05/2011 for online payment)
31/05/2011	Submission of 2010 income declaration
15/06/2011	Submission of 2011 wealth tax return with payment
15/09/2011	Balancing payment due for 2010 income tax (or 20/09/2011 for online payment)
17/10/2011	Payment of <i>Taxe foncière</i> (22/10/2011 online payment).
15/11/2011	Payment of <i>Taxe d'habitation</i> and <i>TV Contribution</i> (or 20/11/2011 for online payment)
15/11/2011	Balancing payment for 2010 income tax for assessments received in October
15/11/2011	Payment of social contributions for 15/10 <i>Avis</i> (or 20/11/2011 for online payment)
31/12/2011	Submission of 2011 tax shield claim (tax in excess of 50% of 2009 income)

We remind you that the penalties applicable for late declaration are:

- 10% of the tax liability, in absence of a demand sent by registered post or if the declaration is submitted within 30 days of receipt of such a demand
- 40% of the tax liability if the declaration was not submitted within 30 days of such a demand.

In addition, late interest at 0.4% per month will apply.

In case of late payment of a tax demand, a 10% penalty and late interest at 0.4% will apply automatically.



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