

HOLDING FRENCH REAL ESTATE

DIRECT HOLDING OF REAL ESTATE

French tax resident individuals

Personal income tax

Renting a real estate property in France generates rental income. The tax regime applied to rental income depends on whether the property is furnished or not:

- **If the property is rented furnished** (i.e. "Location meublée non professionnelle") rental income is treated as a commercial activity, taxed in the BIC category. The individual can opt for one of the following sub regimes:
 - o The micro-BIC: if the total income of all the furnished properties does not exceed €77 700/year. The individual benefits from a 50% allowance on the income but cannot deduct expenses related to the rented property.
 - o Réel: If the total income exceeds €77 700/year, or under option if less. This regime is applicable for 2 years minimum. The individual does not benefit from an allowance but can deduct all the expenses related to the property. This regime allows the deduction of the depreciation of the rented property, which represents the loss of value of the property over time.
 - o The micro-BIC regime for rentals of **properties classified as furnished tourist accommodation** is aligned with that for unfurnished rentals covered by the micro-foncier regime. Thus:
 - Income from the rental of properties classified as furnished tourist accommodation is taxable under the micro-BIC scheme if the amount of revenue excluding tax for the previous calendar year or the penultimate year does not exceed €15,000.
 - The flat-rate allowance applicable in this case is 30%.
 - The lowering of the threshold to 15,000 euros and the lowering of the rate to 30% are the result of a "material error" maintained in the Finance Act for 2024. It is very likely that they will be raised to 77,700 euros and 50% in the next amending finance law. An additional allowance of 21% is granted to companies for sales relating to their business of renting out properties classified as furnished tourist accommodation located in non-tensioned rural areas, if sales relating to all furnished accommodation rental activities do not exceed €15,000 excluding tax in the previous calendar year.
- **If the property is rented unfurnished** (i.e. "Revenus fonciers") rental income is not treated as a commercial activity, and taxed in the rental income category. The individual can opt for one of the following sub regimes:
 - o Micro-foncier: if the total rental income of all the non-furnished properties does not exceed €15 000/year. The individual benefits from a 30% allowance on the income but cannot deduct expenses.
 - o Réel: if rental income exceeds €15 000/year, or under option if less. The individual does not benefit from an allowance but can deduct all the expenses related to the rented property. This regime is applicable for 3 years minimum.

Regardless of whether the property is rented out furnished or unfurnished, French source rental income is taxed at the income tax progressive scale and subject to a 17,2% social contribution. However, individuals affiliated to an EEA country (EU, Island, Norway, Liechtenstein) or Switzerland, except France, are exempted from CSG and CRDS and are subject to a 7,5% social contribution. Rental income must be reported on the individual annual French income tax return. The payment of the income tax and social contributions is made through a monthly (or on option a quarterly) debit on the individual's bank account since the implementation of the withholding tax in France on January 1st, 2019.

Losses carry forward

As part of the "régime réel", expenses are deductible from the taxable rental income. In case of deficit, these are carried forward to the following years.

For *revenus fonciers* (unfurnished rental income):

- It is possible to deduct the losses (except for the portion representing loan interests), on the global income up to € 10,700.
- The losses exceeding € 10,700 in the current year and/or the fraction representing loan interests can be carried forward on the rental income over the 10 following years.

For *bénéfices industriels et commerciaux* (furnished rental income):

- If the rental activity is not carried out professionally, the deficit can be offset against the benefits over the next 10 years.
- The depreciation of the property is deductible.

REAL ESTATE LOCAL TAXES

Real Estate are subject to several taxes depending on the stage of the life of the building:

1 – At the Building Permit stage:

Once the construction project is approved (at reception of the building permit authorization), the permit owner is subject to planning taxes (*Taxes d'urbanisme*):

- The Local Equipment Tax (TA);
- Preventive archaeology Fee (RAP);
- the tax for the creation of offices, commercial premises, and storage area (TCSB) only applicable in the Paris and suburb areas, corresponding to Department Number 75, 77, 78, 91, 92, 93, 94, 95.

These taxes are proportionate to the number of additional sqm of the projected premises.

2 – Over the life of the building:

Property Tax (*Taxe Foncière*)

From the first year of the building's existence and every year, a property tax is owed. It is calculated based on the total cost price (land, construction, and layouts) if it is an industrial building and on its area for other professional premises (A rate per square meters is then applied to determine the tax amount).

The finance law for 2021 halves the interest rates applicable to the cost price of different elements of industrial establishments. Consequently, from 2021 the amounts of property taxes for industrial premises are reduced by half.

Household Garbage Removal tax (*TEOM*)

The owner of the building is also liable for the household garbage removal tax, the amount of which is directly determined in the property tax notice and returned to the local community or through a levy established by the local community itself.

Running Tax on offices, commercial premises and storage area and the Car Parking Tax for premises located in the Paris area (*TSB, TSS*)

In addition to the property tax, buildings located in the Paris area (Paris and suburbs) may be subject to regional taxes when exceeding a given surface threshold, such as the following taxes:

- Tax on offices, commercial premises and storage area for surface resp. exceeding 100, 2500 and 5000 sqm, or
- Parking tax for Parking areas exceeding 500 sqm.

Taxes are proportional to actual sqm of the premises and can be up to 25,31 € /sqm/year for Paris inner ring (2024 tax rate).

The Street Cleaning and Sweeping tax (*Taxe de Balayage*)

Premises may be subject to municipal taxes such as the Street Cleaning and Sweeping tax. It is calculated based on the area of public street and the façade right of each property on a width representing half of the track within the limit of six metres.

Tax on Shopping areas (*TASCOM*)

Some premises, such as commercial premises with sales space, are liable for the tax on commercial areas (Tascom). The base of this tax is resulting from the relationship between the annual sales pre-tax turnover carried out by the square metres of sales areas. Shops with a retail area of more than 400 m², and realizing a pre-tax turnover from 460 000 €, are subjected to this tax.

3 – Local tax at Real estate acquisition

At the time of purchase, the acquisition deal may include an agreement between the seller and the purchaser on a "Prorata temporis" distribution of the payment of the property tax.

4 – Local Tax due by Landlord for Rental Investment

If the building is a rental investment, the landlord has the possibility to re-charge the property tax to the tenant, tax on offices, commercial premises and storage area, the parking tax, and if the building is in the Paris area, the Street Cleaning and Sweeping tax (*Taxe de Balayage*), as well as the Household Garbage Removal tax (*TEOM*).

5 – Local tax at the Purchase of a building to be operated by the owner

Corporate real estate tax (CFE)

When the building is intended to be operated by the owners themselves, they will be subject in addition to the property tax, to the Corporate real estate tax (CFE) based on the rental property value that has been determined for the calculation of the property tax and proportionate to the surface of the premises.

Local tax collection table

Case	Relevant Tax
At the creation of the building	-Urban planning tax: (TA , RAP, TCBCS).
Real estate acquisition	- Property tax (shared prorata temporis between the 2 owners for the year of acquisition)
Empty building	-Property tax (Taxe Foncière). -Household garbage removal tax (TEOM). -The Street Cleaning and Sweeping tax. -Parking tax (only in the Paris area). -Tax on offices, commercial premises and storage area (TSB, TSS).
When Landlord is also occupying the premises	-Property tax. -Household garbage removal tax (TEOM). -The sweeping tax. -Parking tax (in Parisian region). -Tax on offices, commercial premises and storage area. Corporate real estate tax (CFE) -Tax on commercial areas-TASCOM (if sale area).
When the building is rented to a tenant	-Property tax (Taxe Foncière) *. -Household garbage removal tax (TEOM)*. -The Street Cleaning and Sweeping tax*. -Parking tax (only in the Paris area) *. -Tax on offices, commercial premises, and storage area (TSB, TSS) *.

(*) the tax can be recharged to the tenant.

Real Estate Wealth tax

A property wealth tax ("*impôt sur la fortune immobilière*") is levied on the detention of real estate by individuals (it was levied on the total wealth including movable property, before 2018). A French tax resident is subject to the Real Estate Wealth tax in France if the worldwide real estate property assets and real estate investments (net of associated loans) exceed € 1,300,000 on January 1st of the tax year.

The taxable wealth tax base equals the market value of the property assets after deduction of the following expenses:

- Loan left to be paid on January 1st,
- Property taxes (the TOM and the dwelling tax are not deductible),
- Works made in the property left to be paid on January 1st,
- The theoretical wealth tax.

Individuals benefit from a 30% allowance on the market value of their main residence.

Wealth tax applies on the property value as of €800,000, at a progressive tax rate from 0,5% to 1,5%.

3% tax on immovable property (FTC, art. 990 D to 990 G)

A tax of 3% is levied on the market value of all immovable property owned by a company, regardless of the company's taxation regime (corporate tax companies pay it themselves and income-tax companies pay it through the associates). This tax can be exempted under conditions and if the declaratory obligations are met.

Non-resident individuals

Income tax:

Non-French tax residents are taxable in France on their French source rental income. The same tax regime applies. However, non-residents are subject to a minimum income tax rate of 20% up to €28,797 and 30% on income exceeding that amount. Social contributions are reduced to 7.5% instead of 17.2% if the individual is affiliated to a EEA country or Switzerland.

Real Estate Wealth tax:

A non-French tax resident is taxable on the only French property assets exceeding €1,300,000 on January 1st, of the tax year. If non-French tax resident for the past 5 years preceding the arrival in France, the individual will be subject to wealth tax on the only French real estate properties, for 5 years. The same tax rate applies.

French incorporated companies

Corporate income tax

Business income such as rental income and capital gains are subject to corporate income tax. All income gains and expenses of companies are considered on an accrual basis.

Deductibility of costs, interest and depreciation

Companies can deduct interest costs and depreciation costs from rental income. Amortisation of buildings can be considered for periods depending on the type of building (20 to 50 years for commercial buildings, 20 years for industrial buildings, 25 years for offices, etc.). However, land is not depreciable.

Anti-tax-avoidance directive

The anti-tax avoidance Directive (ATAD) is an EU Directive that will be implemented by the European countries. ATAD contains certain interest restrictions that may affect investors in real estate. The Directive has been transposed into French law by the French Financial Law for 2019. It prevents for instance the deduction of more than 75% of the financial expenses if their amount is more than € 3 million or 30% of the EBITDA.

Losses – carry back/forward

Losses may arise if there is an excess on interest and depreciation allowance over the rental income. Such losses may be carried forward for offset against future rental income and capital gains of this company in the limit of € 1,000,000 plus 50% of the benefit's amount of the fiscal year exceeding this limit. The overage of deficits could be carried forward in the same conditions without time-limit. A carry back is also possible. In case of fiscal unity (consolidated group), losses of the company can be offset on profits made at group level.

Real estate local taxes

Resident companies owning real estate are subjected to local taxes. Same rules as for resident individuals apply.

Non-French incorporated companies

Since French real estate held by a foreign company is considered as constituted a permanent establishment in France, non-resident companies are treated in the same manner as resident companies. However, the non-resident company is limited taxable in France with the income generated in France.

INDIRECT HOLDING OF REAL ESTATE

This section discusses the tax implications of the indirect (shares) holding of real estate. First is discussed the impact for resident individuals and non-resident individuals. Thereafter is discussed the impact for resident companies and non-resident companies.

French Tax resident individuals

Personal income tax If a real estate property is held by a tax transparent real estate company (SCI) subject to income tax, the shareholders of the SCI will be personally subject to income tax on the rental income received by the SCI in proportion of their shares in the SCI. The common tax regime of rental income applies (income tax progressive scale + 17,2% social contributions). A tax transparent SCI subject to income tax can only rent out unfurnished property. To rent out a furnished property, the SCI must be in principle subject to corporate tax.

If the company is subject to corporate tax, the shareholder will be taxed on income distributed in the investment income category, as dividends, (*revenus de capitaux mobiliers*) at a 30% flat rate, or on option at the income tax progressive scale after application of an allowance of 40% of the income. This option is only available for shares acquired before January 1, 2018.

3% tax on immovable property (FTC, art. 990 D to 990 G)

A tax of 3% is levied on the market value of all immovable property owned by a company, regardless of the company's taxation regime (corporate tax companies pay it themselves and income-tax companies pay it through the associates).

Real Estate Wealth tax

SCI shares held by a French tax resident shareholder are included in the wealth tax base in proportion to their shares in the SCI. If the main residence of a shareholder is held by the SCI, the 30% allowance is not granted. Regardless of the nature of the company holding the property, the share value of company subject to corporate tax may also, under conditions, be included in the shareholder's wealth tax base. However, are exempted from wealth tax shares of companies carrying out a commercial, industrial, craft, agricultural company, if the shareholder holds less than 10% of the capital or voting rights.

Non-French tax resident individuals

Personal income tax

If a real estate property located in France is held by a tax transparent real estate company (SCI) subject to income tax, the shareholders of the SCI will be subject to income tax on the rental income received by the SCI in proportion of their shares in the SCI. However, Non-residents are subject to a minimum income tax rate of 20% up to €28,797 and 30% on income exceeding that amount. Social contributions are reduced to 7.5% instead of 17.2% if the individual is affiliated to a EEA country or Switzerland.

If the company owning the property is subject to corporate tax, the shareholder will be taxed on income distributed in the investment income category, as dividends, (*revenus de capitaux mobiliers*) at a 12,8% flat rate, or on option at the income tax progressive scale after application of an allowance of 40% of the income. This option is only available for shares acquired before January 1, 2018. No social contributions are due by foreign tax residents.

Real Estate Wealth tax

The same tax regime applies. The property held indirectly must be located in France in order to be included in the shareholder's wealth tax based.

French incorporated companies

Corporate income tax

Income derived out of shareholding is qualified as business income for companies and taxed at corporate income tax.

Losses

Interest costs from loans for acquiring the share of a real estate company are regarded as part of the cost price and are amortised for 5 years. Depreciation costs can be subject to provision.

Anti-tax-avoidance directive

The anti-tax avoidance directive (ATAD) contains certain interest restrictions that may affect investors in real estate. The Directive has been transposed into French law through the French Financial Law for 2019. It prevents for instance the deduction of more than 75% of the financial expenses if their amount is more than € 3 million or 30% of the EBITDA.

Distribution of income and gains

Dividends paid to another company who owns at least 5% of the payers share capital are exempted from taxation provided the shares are owned for a minimum of 2 years (under the parent-daughter regime). A quota of fees and shares equal to 5% of the net income from the dividend is reintegrated and taxed at corporate income tax. Dividends paid to a foreign company (non-resident) are exempted from withholding tax.

Non-French incorporated companies

Non-resident companies are treated in the same manner as resident companies. However, the non-resident company is limited taxable in France with the income generated in France.