

Impatriates: what about your taxes?

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Are you a foreigner who has come to work in France? March is an important date for you: you must generally declare your income to the French tax authorities by the 30th of that month. But what income must you declare? On what forms? Are you taxable in France? To what exemptions are you entitled?

These are all questions which the expatriation consultants of the ELAN and its partners are prepared to answer for you. First of all, one has to determine whether or not you are a tax resident in France. It will then be possible to consider the special situations of non-residents and tax residents in France.

This note should be of help even if you have not yet arrived in France, by providing information which may be important in negotiating the terms of your future foreign assignment contract.

I. Are you a French tax resident?

When you leave to work abroad, you generally remain subject to taxation in your country of origin, but also in your foreign host country. Depending on your situation, you may thus be taxed twice for the same income (double taxation). It is therefore very important to be fully informed about your liabilities **before leaving**, in order to take them into account when negotiating the terms of your foreign assignment.

The first step will be to determine in which country you will have your **tax residence**. It is in the country of your tax residence, in fact, that you have to declare all your income, whether or not it originates (“has its source”) there. This does not dispense you from paying some taxes also in the country or countries in which you are *not* a tax resident, to the extent that the income has its source in them¹.

In order to determine the country in which you have your tax residence one must take into account both the laws of your country of origin and those of your host country. Generally:

- you have your tax residence in the **host country** if
 - (i) you are single, and your foreign assignment last more than 183 days. Note, however, that you do not become a French tax resident at the end of the 183 days, but on the first day of your assignment if the mission lasts more than 183 days. This is also the case if you are married under the regime of *separate property* (séparation des biens), and no longer live with your spouse.

¹ NB: The term “source” for a salary does not mean the place where the salary is paid, but rather the place where the work is performed. Consequently, if you work in France but all or part of your salary is paid on a foreign account, it constitutes income from a French source. This means that you cannot ask that your salary be “split” among countries in order to reduce your taxes.

- (ii) you are married, and your family accompanies you. In some cases, however, you may be considered a tax resident in the new host country, while retaining a tax residence also in your country of origin even if your family does *not* accompany you.
- On the other hand, you have your tax residence in your **country of origin** if
 - (i) you are single, and your foreign assignment does not exceed 183 days.
 - (ii) you are married, but your family does not accompany you.

For additional information, see the French law (**article 4B of the Code Général des Impôts**), that specifies that France is the country of your tax residence if

- (a) **Your family center (“*foyer familial*”) is in France:** you are a foreign national, you work in France, and your family has accompanied you there. Note: the concept of a family center is irrelevant for your tax status if you are divorced, separated or married under the separation of property (*séparation des biens*) regime.
- (b) **France is your principal place of stay (“*séjour*”):** you have spent more than 183 days per year in France, or your stay in France has been longer than in any other country;
- (c) **France is the country of your main professional activity:** i.e. you spend most of your work time in France;
- (d) **France is the center of your economic interests:** this criterion is the most difficult one to ascertain. It takes into account your financial and property interests to determine whether most of your income originates in France, regardless of the time you spend there.

Apart from these French criteria, it may be that your country of origin considers you also as a tax resident. In that case you would be subject to double taxation, except where France and the country of origin had concluded a tax treaty².

Note, however, that in any event the laws of both countries would apply to you. All the tax treaty does is to avoid double taxation, using generally the following criteria:

- (a) **Your permanent place of living:** your tax residence is the place where you live, alone or with your family;
- (b) **Your vital interests:** if your tax residence cannot be determined under (a) above, it will be the place where you have the closest personal, family and patrimonial ties (family relations; political and cultural activities; children’s schooling; sources of income, etc.)

² Cf. Appendix to this note, listing the 102 countries which have signed a tax treaty with France.

- (c) **Your citizenship:** if your tax residence can be determined neither under (a) nor under (b), it will be that of your citizenship.

If you are a double national, the ministries of finance of both countries will have to agree on a case-by-case basis.

II. You are not a French tax resident: what is your position with regard to the French tax authorities?

Even if your tax residence is not in France, you are taxable there on your income from French sources: salaries, rent, dividends, etc.

As concerns actual income from French sources, the French tax authorities withhold at the source the tax on the expatriates' salaries, as well as some incomes from personal property: you are consequently not required to declare them.

On the other hand, you will have to make a declaration for all other income from French sources. In fact, the tenant to whom you may have let an apartment – whether furnished or unfurnished – will not have withheld at the source the tax on his rent. You will therefore have to declare the French tax authorities such French-source income that has not yet been taxed.

When filing your return, you must thus submit the following forms:

- **2.042**, for salaries paid in France for an activity carried out in France (or form **2.042 NR** if it is a first return as a non-resident), in the exceptional case that the tax may not have been retained at the source.
- **2.041 E**, if your salaries for professional activities carried out in France exceed 25 euro per day.
- **2.044**, for your rental income;
- **2.049**, for real estate capital gains realized before January 1, 2004. After that date, real estate capital gains are taxed as soon as the gains have been realized, and need thus not be included in your declaration.
- etc.

The minimum tax rate for these incomes will be 25 %.

III. You are a French Tax resident: what is your position with regard to the French tax authorities?

If you are a foreign national who has come with his family to work in France you are considered a French tax resident. You will have to declare all your income every year in March.

A. Your French taxes

Note that with some exceptions France does not withhold taxes at the source: when your salary is paid, it is thus not net of taxes. On the other hand, social contributions (unemployment and medical insurance; pension fund contributions) are withheld at the source: hence the difference between your gross and net salary.

This means that, when you submit your income tax declaration in March each year, you should not expect a tax refund. To the contrary – depending upon your salary and number of dependents – you may well have to pay additional tax. In the first year these taxes will have to be paid in September; then, in “provisional thirds” (“*tiers provisionnels*”) in January, May and September of the following years.

In practice, how should your taxes be declared? If it is your first declaration, request form 2.042 at the “*mairie*” (municipal authority) of your domicile. List under line “AJ” all your revenues, and indicate the number of hours you have worked during the year. Specify the number of your dependents (spouse; children). Send the form to your tax office (“*Centre des Impôts*”: the “*mairie*” will give you the address). That is all.

The following year, form 2.042 will be mailed directly to your domicile by the tax office.

In your first declaration, you must list all the income received since you have acquired a tax residence (“*arrivée fiscale*”) in France. Note, in that connection, that your “*arrivée fiscale*” does not necessarily mean your physical arrival in France. If you are single, or if your spouse arrived at the same time as you, the two dates coincide. But if you are married and your spouse does not arrive at the same time as you, the “*arrivée fiscale*” in France corresponds to the arrival of first of the two spouses.

Other point: since at present the French government seeks to encourage impatriation, some measures benefiting impatriates have been added to the 2003 financial law. Thus **Article 23 of Law No.2003-1312 of December 30, 2003** provides that:

1. Any taxpayer (non-French or French) who settles in France after January 1, 2004 may – as long as he has not had his tax residence in France during the past 10 years – deduct the expatriation allowances from the declared income. This tax abatement applies until December 31 of the 5th year spent in France, and has a ceiling: the declared income must correspond to the average income in the taxpayer’s profession.

[Example: if your annual earnings amounted to 50,000 Euros, of which 15,000 Euros corresponded to an expatriate allowance, but the average salary in your professional category is 40,000 Euros per annum, you could not deduct the entire 15,000 Euro allowance, since this would leave you with an annual base salary of 35,000 Euros – i.e. less than the prevailing 40,000 Euro average. Consequently, all you could deduct would be 10,000 Euros, leaving you with an annual 40,000 Euro income]

2. Impatriates who – voluntarily or not – continue to be covered by the social security, welfare or pension schemes of the foreign country from which they come, may also deduct from their income the amount of the respective contributions.

B. What about your non-French income?

Since France is the country of your tax residence, you must declare there all your income, even from foreign sources. Under some conditions you may be tax exempt on them, but you must nevertheless declare them. For that purpose you must fill out **form 2.047**.

C. Your foreign bank accounts

If you still maintain foreign bank accounts, you must **IMPERATIVELY** declare them on **form 3.916 EXP.**, failing which you risk a fine of 750 Euros (as of 2003 legislation) for each non-declared account, and the amounts credited to it will be taxable in France.

D. Your departure from France

When you leave France definitively, you must **IMPERATIVELY** obtain a tax clearance (“*quitus fiscal*”) from your tax office **before leaving**.

This clearance is obtained once you have declared your income and paid your taxes. The income declaration is thus not submitted in March of the following year, as would have been the case if you had remained in France, but must be filed within **30 days before your “tax departure”** from France.

Note: the date of your “tax departure” does not necessarily mean the date of your physical departure from France. If you are single, or if you are married and your spouse leaves France at the same time as you, the two dates coincide. But if you are married and your spouse does not leave France at the same time as you, your “tax departure” from France corresponds to the date of the physical departure of the spouse who leaves last.

In order to receive your tax clearance, you must appear at your tax office, fill out the declaration and pay your taxes. You must declare all the income received on your bank account between January 1 and the date of your “tax departure”.

If you fail to obtain your tax clearance, you will be charged 0.75 % per month interest and a penalty of 10 %.



IV. What does your employer have to do in connection with your taxes?

This is obviously an issue that arises only with regard to expatriates or impatriates, in which case it would be natural – and indeed advisable – for you to involve your employer.

In fact, depending on which country you come from, you may find that you will have to pay more taxes in France, and that your life style may consequently suffer. You may thus want to ask your employer to assume the corresponding charges.

Your employer can help you in two ways to pay for your excess taxes:

1. He may take care of your additional tax load through your expatriation allowance; one must take into account, however, that the expatriation allowance itself may (as noted above) be subject to taxation, and can be calculated only on the basis of best estimates.
2. He deducts from your salary the amount of taxes you would have paid in your country of origin, and assumes the responsibility for paying the actual tax in France.

In any event, you would do well to discuss all this with your employer before your departure, when the contract for your foreign assignment is negotiated.

*This article has been reviewed by
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APPENDIX: listing of the 102 countries which have signed a tax treaty with France.

The text of the convention applicable in your case can be downloaded on
http://www2.impots.gouv.fr/conventions_fiscales/index-d.html

Algeria	Iceland	Pakistan
Argentina	India	Philippines
Armenia	Indonesia	Poland
Australia	Iran	Portugal
Austria	Ireland	French Polynesia
	Israel	
Bahrain	Italy	Quebec
Bangladesh	Ivory Coast	
Belgium		Rumania
Benin	Jamaica	Russia
Bolivia	Japan	
Botswana	Jordan	Saint-Pierre and Miquelon
Brazil		Saudi Arabia
Bulgaria	Kazakhstan	Senegal
Burkina Faso	Kuwait	Singapour
		Slovakia
Cameroon	Latvia	Slovenia
Canada	Lebanon	South Africa
Central African Republic	Lithuania	South Korea
China	Luxembourg	Spain
Congo		Sri Lanka
Cyprus	Madagascar	Sweden
Czech Republic	Malaysia	Switzerland
	Malawi	
Denmark	Mali	Thailand
	Malta	Togo
Egypt	Mauritania	Trinidad and Tobago
Equator	Mauritius	Tunisia
Estonia	Mayotte	Turckey
	Mexico	
Finland	Monaco	Ukraine
	Mongolia	United Arab Emirates
Gabon	Morocco	United Kingdom
Germany		United States of America
Ghana	Namibia	
Greece	Netherlands	Venezuela
	New Caledonia	Vietnam
Hungary	New Zealand	
	Niger	(Ex) Yugoslavia
	Nigeria	
	Norway	Zambia
	Oman	Zimbabwe



Further Reading:

Les impôts en France 2003-2004. Jean-Yves Mercier and Bernard Plagnet. Francis Lefebvre. 2003.

Fiscal 2004. Francis Lefebvre.

Les impôts de l'expatrié. Yannick Aubry. Gereso Édition. 2003.

Guide 2003 des déclarations de revenus françaises. Centre de la mobilité internationale.

(You can order this guide by contacting CMI at 3 ter, rue Fleurie, 37340 Ambillou. Phone : 02 47 55 95 61).

Conventions fiscales internationales. Francis Lefebvre.

Le livret du Français à l'étranger. Ministère des Affaires étrangères. 2001.

Le guide du retour en France. Association pour la formation professionnelle française à l'étranger. 1999.

Fiscalité française et mobilité internationale des salariés. Mirko Hayat and Valérie Stéphan. Economica. 1997.

Fiscalité internationale. Pierre-Jean Douvier. Litec. 1996.