

**France Finance Act 2013 (Loi de Finances): what will
change for individual taxpayers ?**

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Tax reforms in France

- Commitment to reduce the budget deficit to 3% next year
- Effort mostly on tax increases (freeze in nominal terms of public spending)
- « those who have the most should pay more »
- Budget Bill for 2013 released on September 28, 2012

Personal Income Tax

– Rate : toward a significant increase :

- New tax bracket at 45%
- Reduction of the tax benefits attached to dependents (quotient familial)
- Freeze of the thresholds.

Taxable income per shares (€)		Rate
Up to	5,693	0
5,693	11,896	5.5%
11,896	26,420	14%
26,420	70,830	30%
70,830	150,000	41%
150,000	over	45%

Personal Income Tax

- No repeal of the special surtax on high income (« contribution exceptionnelle sur les hauts revenus ») according to the Finance Bill 2013
 - **3%** on taxable income between €250,001 and €500,000 and **4%** above for single and 3% between €500,000 and €1,000,000 and 4% above for married people
- Sweet reminder:
 - Social tax (CSG/CRDS) at 8% for business/employment income and 15,5% on investment income applies on top of income tax.
 - Likely increase.

Personal Income Tax

- Loopholes / « niches fiscales ».
 - Finance Bill for 2013: Overall reduction of tax no higher than €10,000.
 - ... with some exceptions not in the scope of the limitation
 - Tax attributes attached from investments in associated territories (“Outre Mer”), certain real estate (“loi Malraux”) and in companies financing the movie industry (Sofica).
 - Former cap applies : 18% + 4% of net earnings
- Effective 1 January 2013.

“Contribution exceptionnelle sur les très hauts revenus”

- ” The « 75% millionaire tax »
 - Earnings from professional activities over €1m per individual per tax household in 2012 and 2013 trigger an exceptional 18% tax
 - This 18% tax is distinct from the income tax but filed and administered according to the same rules
 - Basis:
 - employment income, officer compensation, professional business/non-business/agricultural income, gains on stock options, on grants of free shares, which are not taxable at the “10% contribution sociale salariale”;
 - Investment income and gain not taxable
 - Temporary : 2012 and 2013

“Contribution exceptionnelle sur les très hauts revenus”

- The « 75% millionaire tax » (ctd.)
 - The 75% on income above €1 million is an aggregate of
 - The highest tax break at **45%**
 - CGS at **8%**
 - Contribution sur les hauts revenus of **4%**
 - Contribution sur les très hauts revenus of **18%**
 - This tax applies to every individual within its scope, without taking into consideration his/her family situation or family expenses
 - The taxable basis for professional activity revenue above €1m is reduced by a fraction (5.1%) of the general social contribution and by the professional expenses (either flat or real amount)

“Contribution exceptionnelle sur les très hauts revenus”

– Issues :

- Competitiveness for French based MN's;
- Wrong signal to the entrepreneurs

– Answer ?

- Defer compensation?
- Split payroll?
- Migration?

Investment Income

- Investment income to be treated as ordinary income as of 01/01/2012
 - Current rates (optional fixed rate):
 - Interest : 39.5%; Dividend : 36.5% (social taxes included)
 - Capital gains tax on shares and real estate : 34.5%
 - Finance Bill for 2013:
 - Alignment with ordinary income
 - Includes Capital gains on shares, carried interest, capital gains on stock options, on free shares.
 - **Real estate:**
 - Allowance for holding period no longer applicable to constructible land as of 2013 (and transaction with *promesse* executed in 2012) and as of 2015 be treated as ordinary income.
 - Otherwise : no change (19%) and allowance with a special additional deduction of 20% for transfers in 2013

Investment Income

- Investment income to be treated as ordinary income as of 01/01/2012
 - **Dividend**
 - PFL of 21% mandatory as of 01/01/2013 to be applied on income tax
 - Highest tax burden : **44,9%** (**42.4%** net of CSG) **before ISF**
 - **Interest**
 - PFL of 24% mandatory as of 01/01/2013 to be applied on income tax
 - Highest tax burden : **64.5%** (**62,1%** net of CSG) **before ISF**

Gain on disposal of Stock

- Current rates (optional fixed rate) before reform:
 - $19\% + 15.5 = 34.5\%$
 - With some exemptions (or deferral)
 - PEA, “Groupe Familial”, “JEI”, Retirement (8 Y), Reinvestment (80%, 5Y, from deferral to exemptions) for instance.

Gain on disposal of Stock

– Sale in 2012 :

• Two rates

- **39.5%** : (24% + 15.5%) for investors with no « abattement »/ allowance for holding period;
- **34.5%** : (19% + 15.5%) for entrepreneurs (« dirigeants et salariés »)
 - holding of the shares for at least 5 years
 - 10% with related individuals (« groupe familial ») for at least 2 years within the last 10 year period and 2% at least at the date of the sale
 - Active (officer/director or employee) within the company for at least 5 years before the year of sale

– Exemptions :

- Existing exemptions applicable « as is ».

Gain on disposal of Stock

– Sale in 2013 and after:

• Two rates

– Standart Income tax rate : (45% + 4% + 15.5%) : **64.5%** (net of CSG : 62.1%)

• « Abattement » / Allowance for holding period :

– 20% (2 to 4 Years) **54.7%** (net of CSG: 52.2%)

– 30% (2 to 6 Y) **49.8%** (net of CSG: 47.3%)

– 40% (+6Y) **44.9%** (net of CSG: 42.4%)

• « Depuis l'entrée des titres dans le patrimoine ».

– **34.5%** (19% + 15.5%) / « Entrepreneurs » / same conditions

– Capital loss deductible

• Exemptions

– Current still applicable with revision of the one subject to reinvestment (50% - and no longer 80%-, within 24 months –and no longer 36 months- pro rata exemption with the benefit of the « abattements »)

Deferred compensation (as of 2013* / 2012 not covered)

		Salary	Qualifying RSU	Qualifying Stock options	Carried interests
Employee	Income tax and high income surtaxe	49%	49%	49%	49% with allowance on holding period
	Special tax on very high income	18%	No (except for RSU granted before 10/16/2007)	No (except for S/O granted before 10/16/2007)	No
	Social tax	8%	15,5%	15,5%	15.5% to be confirmed
	Special social tax	No	0% (before 10/16/2007) 8% (before 07/11/2012) / 10%	0% (before 10/16/2007) 8% (before 07/11/2012) / 10% 0% (before 10/16/2007) 8% (before 07/11/2012) / 10%	No
	National insurance contribution	Yes : 2%	No	No	No
Employer	Social tax (excl. payroll tax)	Approx. 25%	10% (10/16/2007) / 14% (01/01/2011) / 30% (07/11/2012)	10% (10/16/2007) / 14% (01/01/2011) / 30% (07/11/2012)	No (To be confirmed)
Total		102%	104,5%	104,5%	To be determined on finalized draft

SO / AGA / CARRIED INTEREST (« CI »)

– Sale in 2012 :

- SO / AGA : no change
- CI : increase from 19 to 24%

– Sale in 2013 and after :

- SO / AGA granted before 28 September 2012 and CI :
 - capital gains treatment :
 - Standart rate
 - CSG/CRDS : 15,5%
 - Abattements for holding period for grantings as of 20 June 2007 (PSO/ABSA)
 - No 7% tax
- SO/ AGA granted after 28 September 2012 : Salary treatment
- CI : no reclassification into salary?

Wealth Tax

Reform of the Wealth tax

- Reform for 2011 neutralized by current government.
- Finance Bill for 2013:
 - The bill sets a new floor of €1.31m and five new tax rates ranging from 0.5% to 1.5%
 - The cap is back but affects ISF only
 - 75% (ISF, French and foreign income taxes, special surtaxes et social taxes)
 - Reference income : ww net income, exempt income and income subject to a flat tax AND
 - Capitalized income (PEL, Assurance-vie or alike, trusts)
 - Deferred capital gains (report and sursis”)
 - Distributable income of companies held at more than 25% not having as main activity a business activity.

Reform of the Wealth tax

Taxable amount		Rate
Up to	800,000	0
800,000	1,310,000	0.50%
1,310,000	2,570,000	0.70%
2,570,000	5,000,000	1%
5,000,000	10,000,000	1.25%
over	10,000,000	1.5%

Reform of the Wealth tax

Conclusion

- Maximizing the cap in freezing as much as possible available income with less flexibility.
- Migration?
- To be followed

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