



SIMONARD & SOREL

A V O C A T S

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US Tax Law Developments

2010 was supposed to be a year of recovery, and we should all take the time to reflect how and if we've recovered. Don't Ask Don't Tell was repealed and Health Care reform was passed, so I'd say the Democratic Party recovered some of their prior missed promises. The conservative movement, not to be outdone, recovered the spotlight with their Tea Partying through the midterm elections, but they didn't completely upstage the entertaining outliers like The Rent Is Too Damn High Party.

Aside from the politics of the recovery, the world participated in a beautiful Winter Olympics (go curling!) and an exciting World Cup (except those vuvuzelas). And there were events like the Gulf Oil Spill that we'll still need to recover from, yet we managed to get the big problems capped and the remaining work underway. So while the world economy may not have been pulled out of its hole by year-end, there was at least a group of Chilean miners who were pulled out of theirs.

In the last weeks of 2010, Congress and the President came together as is tradition and passed legislation to extend many tax breaks so we can rest easy for two more years. You will find below a summary of the provisions we think will have the greatest effect on our clients, although we cannot possibly list all the various changes and their consequences. For further information we would recommend that you contact us to discuss your particular circumstances.

Estate and Gift Taxes, more favorable than expected

The big question for 2010 in the tax consulting community has been the Estate Tax, or more appropriately, lack thereof. In case you haven't heard, the Estate Tax was repealed for 2010, so if you'd lost a loved one who left you a large amount of money, the government didn't get even a taste of it. There was a lot of discussion as to whether this repeal would survive a Democratic President and Congress, and if, for 2011, we'd revert back to the much lower exemption levels and much higher tax rates (55%!) of the statutes. Both these concerns were resolved with the Tax Relief Act of December 2010. The Act provides for those dying in 2011 and 2012 an exemption of \$5 million from the Estate Tax, the excess of this amount will be taxed at a maximum 35% rate.

The other side of transfer taxes, the Gift Tax and Generation-Skipping Transfer Tax, has also been changed by the Tax Relief Act, but these are actually more favorable than Bush-era levels. For 2011 and 2012, the annual exclusion is \$13,000 but the lifetime exclusion is increased from \$1 million to \$5 million, with tax charged at a maximum tax rate of 35%, to converge with the Estate Tax. As of current legislation, these exemptions and rates are set to expire in 2013 and revert back to the pre-2001 exclusions and amounts. Therefore, if you have considerable assets in the United States that you would like to transfer to your heirs and have not already planned how to do so, 2011 and 2012 are tax favorable years. Keep in mind that French Estate and Gift Taxes could

be payable instead of or in addition to US taxes, so please consult with us before making any significant transfers.

AMT Patch

The AMT (Alternative Minimum Tax) has become the holiday movie special of the tax advocacy community. We all know the consequences of not getting it “patched” on time (read: lost election and lots of angry taxpayers), we all know the lawmakers will wait until the last minute (December 17th), and we all know the patch will come just in time to save the day. Tax year 2010 was no exception; the AMT was patched to exclude taxpayers at rates of \$47,450 for singles and \$72,450 for married couples filing jointly. Luckily for us all, the Tax Act also patched the AMT for tax year 2011 to \$48,450 and \$74,450 respectively, but we will watch the same song and dance for 2012 tax year where the exemptions drop back down to their statutory levels of \$33,750 for singles and \$45,000 for married couples filing jointly.

Foreign Earned Income Exclusion and Foreign Housing Exclusion

The Foreign Earned Income Exclusion has been inflation adjusted for the 2010 income tax year to allow a maximum exclusion of \$91,500 of Earned Income for those who are considered residents of a foreign country under either the Bona Fide Residence Test or the Physical Presence Test. In addition, US taxpayers working overseas can exclude or deduct certain foreign housing expenses with 2010 maximum amounts for France as follows:

City	Garches	Le Havre	Lyon	Marseille	Montpellier	Paris	Sèvres	Suresnes	Versailles
Amount	\$93,900	\$39,500	\$53,500	\$50,000	\$44,300	\$93,900	\$93,900	\$93,900	\$93,900

If you live in France and do not live in one of the above-listed cities, then the maximum amount of expenses available for the housing exclusion is limited to \$27,450 for 2010.

Other Legislative changes

The Tax Relief Act of 2010 also continued or extended many Bush-era tax cuts and credits that were set to expire at the end of 2009, including:

- No increase in rates at all income levels, with the maximum income tax rate remaining at 35% and maximum qualified dividends and capital gains rates of 15%.
- The itemized deduction and personal exemption phase-outs are repealed for 2011 and 2012. This means that if you are a high-income taxpayer, your deductions and exemptions will not be reduced completely.
- Employee’s Social Security Tax rate is lowered to 4.2% for 2011, so if you pay self-employment tax in the US or are a US employee, you will keep 2% more of your paycheck in 2011.
- Continued higher amounts for deductions and credits including the Child Tax Credit, Earned Income Tax Credit, alternative fuel incentive credit, higher education tuition and fees credit and deduction, teacher’s expense deduction, and state and local sales tax deduction.

- Older Americans can withdraw up to \$100,000 a year, tax-free, to donate to certain public charities for 2010 and 2011.

French Tax Law Developments

NEW YEAR, NEW TAXES, NEW RATES

Well... 2011 might not be such a happy New Year compared to 2010. The French Tax Act raised tax rates across the board.

Income tax increase

As part of the plan to finance pension reform, taxes on high incomes, incomes from capital, and capital gains taxes, have been increased by 1%.

- The highest rate of income tax increases from 40% to **41%**.
- The new thresholds applicable to 2010 income are as follows:

Taxable income Rate

Up to €5,963 0%

€5,964 - €11,896 5.5%

€11,897 - €26,420 14%

€26,421 - €70,830 30%

Over €70,830 41%

- The flat rate tax on dividends and interest, and withholding tax on dividends paid to non-resident individuals increased from 18% to **19%**.
- The flat rate of tax on capital gains on security transfers, as well as capital gains on real estate, increased respectively from 18% to 19% and from 16% to 17%. This additional contribution is not taken into account when calculating the refund entitlement provided for in the tax shield.
- The social contributions applicable to investment income, currently 2%, have been increased to 2.2% beginning January 1, 2011, bringing the total social contributions from 12.1% to **12.3%**.

Income tax and matrimonial status

Starting in 2011, couples will no longer be able to benefit from beneficial tax treatment in the tax year they are married. Taxpayers will only file one income tax declaration for the year of their marriage or civil union ("PACS").

However, new spouses and civil union couples can elect to be taxed separately for the whole of the year. In the event of separation, divorce, or breach of a "PACS", the taxpayers would have to file two separate declarations. Currently, taxpayers must file three separate returns for the year that their marital status changes.

Income tax and transfers of securities

The tax threshold (€25,830 in 2010) has been abolished and capital gains on transfers of securities are now taxable on the first euro irrespective of the amount of the transfers made during the year. This measure applies to transfers made as of the 1st of January 2011.

Tax credits on dividends

Tax credits on dividends have been abolished for 2010 income tax. These tax credits were equal to 50% of the sum of the dividends paid and were capped at an annual maximum of €115 for widowed, divorced, and unmarried taxpayers, and at €230 for married or civil union couples who are taxed jointly.

Multi-based life insurance policies

Euro products of multi-support life insurance contracts will be taxed at a rate of 12.3% from the date of inscription and no longer from the date when the contract is paid out.

Global reduction of 10% on tax incentives

Tax reductions and credits which are included in the global capping of tax incentives will be uniformly reduced by 10%, except for tax benefits for household employees, costs of child care, and rental investments in social housing in certain overseas territories. This measure will be applicable in respect to 2011 income taxes, based on expenditures and investments made from the 1st of January 2011.

Tax credits on loan interest

Credits on income tax in respect to interest on loans taken out for the purpose of buying or building a principal residence have been abolished.

Tax credits for solar energy incentives

The credit on income tax in respect to equipment to produce solar energy has been reduced from 50% to 25%, for costs incurred as of the 29th of September 2010.

French Wealth tax

The expected abolition of the French wealth tax will not take place in 2011. The liability threshold for the tax has been increased to 800 000€.

Reductions in income and wealth tax in relation to investment in the capital of small and medium companies ("PMEs"):

These reductions are focused on companies with difficulty in obtaining financing. For this purpose, the idea is:

- to limit the income tax reduction for investments in PME's expansion, as is already the case for the wealth tax;
- exclude activities which are not experiencing structural problems in finding such finance (real estate, financial activities etc);
- allow funds invested in innovation (FCPI), which benefit from reduced wealth tax, to finance companies with up to 2,000 employees.

Economic Forecast

Tax Talk enjoys keeping clients informed of recent tax policy developments which impact client declarations. From tax cuts to tax amnesties, policy decisions in Paris and Washington determine how much of your income you get to keep, and how much the government gets to take.

But tax policy isn't the only way that our work, and your wealth, are affected by government. By determining what you put on your declaration in the first place, monetary and fiscal policy are equally important. In what is a novelty for Tax Talk, we'd like to share the following in-house economic forecast for 2011:

Much to the dismay of the Pollyannas, structural constraints in the global economy make anything but austerity certain for 2011. Ballooning budget deficits and run-away spending assure that governments engage in perception management as their options for dealing with economic malaise, narrow considerably.

With their reaction to the collapse of subprime and Europe's nascent sovereign debt crisis, the Fed and ECB have all but exhausted tools remaining at their disposal. Keep your eyes peeled for a third Quantitative Easing in the second half of 2011, after which the Fed's Chairman, Ben Bernanke will have no more options but to ask Obama for fiscal consolidation.

While Europe fumbles her way deeper into a debt crisis, a sharp rise in borrowing costs will pressure Washington to increase revenue and cut expenditures. The government's annual debt service approaches 1 trillion dollars, or 40% of the Federal budget, and markets are bound to question America's creditworthiness while they raise the costs of their loans. France's fiscal austerity already saw tax increases across the board, all Obama needs to replicate such measures is a series of favorable employment figures. If these figures don't surface, taxes will remain untouched, but the economy will stagnate.

In 2011, pundits will croon over every indicator favorable to a "recovery," but conditions on the ground will remain cloudy. The year promises lots of hype, and little delivery. Further austerity can not be ruled out. Governments are more likely to cut spending, and tighten tax collecting, than bet on the weather.