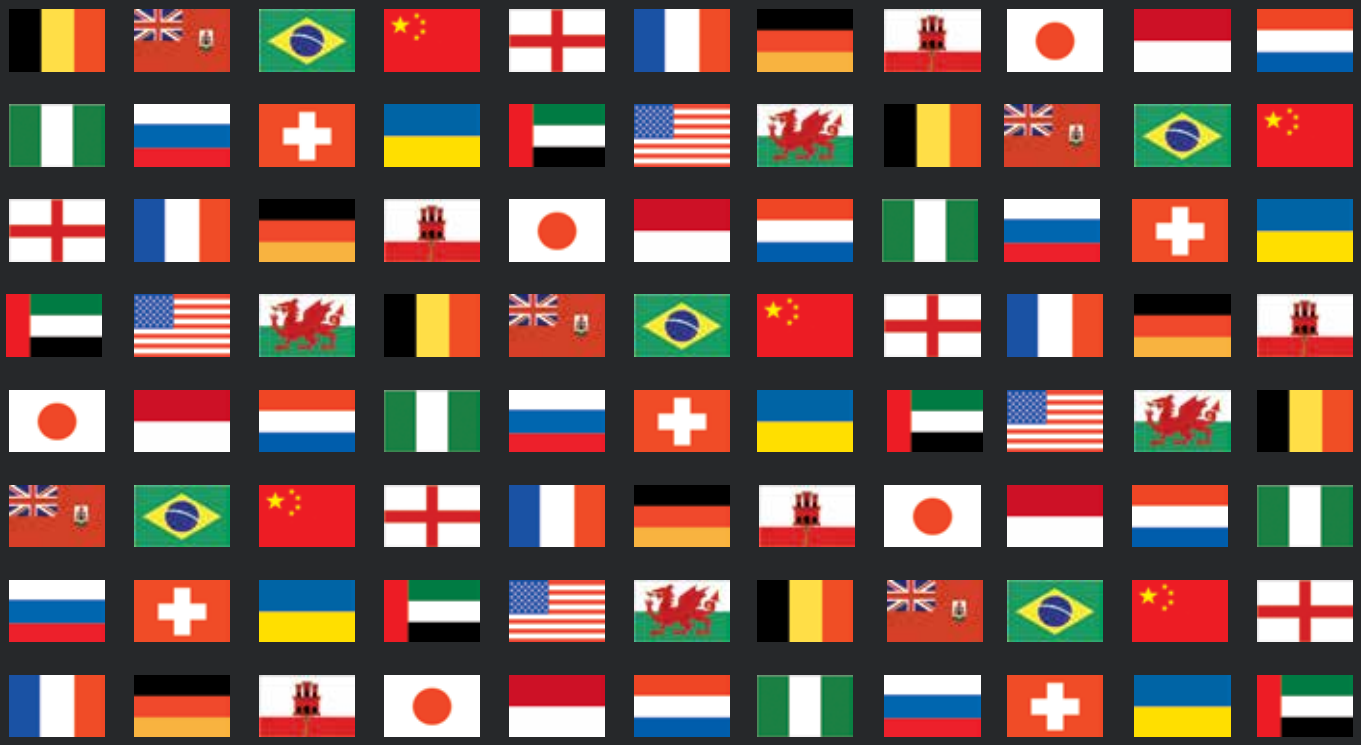
Private Client

In 17 jurisdictions worldwide

Contributing editors
Anthony Thompson and Nicole Aubin-Parvu



2015

GETTING THE DEAL THROUGH

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Contributing editors

Anthony Thompson and Nicole Aubin-Parvu

Wragge Lawrence Graham & Co LLP

Publisher
Gideon Roberton
gideon.roberton@lbresearch.com

Subscriptions
Sophie Pallier
subscriptions@gettingthedealthrough.com

Business development managers
George Ingledew
george.ingledew@lbresearch.com

Alan Lee
alan.lee@lbresearch.com

Dan White
dan.white@lbresearch.com

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France

Maryse Naudin
Tirard, Naudin Société d'Avocats

Tax

1 How does an individual become taxable in your jurisdiction?

The concept of 'residence' determines the French tax authorities' right to tax. It is defined in the same way for all tax purposes (article 4B of the French Tax Code). There are four alternative tests for determining whether an individual is treated as a resident for tax purposes:

- the individual's home is in France;
- the individual's primary place of residence is in France;
- the individual performs an (economic) activity in France; or
- the individual has the centre of his or her economic interests in France.

As a principle, individuals who are residents of France under article 4A of the French Tax Code (FTC) are liable to income tax in France in respect of their worldwide income.

However, where jurisdictions conflict, the applicable tax treaty determines which country can tax.

The concept of 'domicile' is not used by the FTC. However, the French courts usually find that the law of the deceased's last domicile governs succession. Under the French Civil Code, domicile is the place where a person has his or her habitual residence. The place of origin has no influence on the determination of habitual residence.

2 What, if any, taxes apply to an individual's income?

Residents of France are subject to income tax on their worldwide income, except by virtue of the application of a tax treaty. French resident income is as a general rule subject to a progressive tax scale with a marginal tax rate of 45 per cent. It is also subject to social contributions (at the rate of 15.5 per cent for 2014).

Non-residents are subject to French income tax on their French source income. The tax treatment differs according to the type of income.

Real estate income

It is taxed on the progressive tax scale applied to resident taxpayers (a minimum rate of 20 per cent applies to non-residents). Since 1 January 2012, non-resident individuals' rental income from their real property in France is also subject to social contributions at the rate of 15.5 per cent. However, an infraction procedure has been initiated against this for EEA residents.

Investment income

Withholding taxes are assessed on the income of non-resident taxpayers at the following rates:

- dividends: 30 per cent, or 21 per cent if paid to a member state of the European Economic Area (EEA) and 75 per cent if paid to a 'non-cooperative state or territory' (see below); and
- royalties: 33.33 per cent.

Tax treaties usually provide for exemptions or lower rates. However, higher rates apply when payments are made to individuals from non-cooperative states or territories.

Under French law, a state or territory is deemed non-cooperative if:

- it is not a member state of the EU;
- it has been examined by the OECD Global Forum, as established by the OECD on 17 September 2009;
- it has failed to sign a tax information exchange agreement (TIEA) with France; and
- it has failed to sign a TIEA with 12 other countries.

A supplementary contribution also applies to an individuals' high annual income, at a rate of 3 per cent for the fraction of income between €250,000 and €500,000 for single taxpayers (between €500,000 and €1 million for couples subject to joint taxation) and 4 per cent for the fraction of income over €500,000 for single taxpayers (over €1 million for couples subject to joint taxation). This contribution is assessed on the individuals' reference tax income, corresponding to the net annual amount of all income and capital gains, including capital gains on the sale of real estate and exceptional income. This contribution applies to both French residents and non-residents whose French reference tax income exceeds the above thresholds.

3 What, if any, taxes apply to an individual's capital gains?

As a general rule, French-resident individuals are taxed on realised capital gains upon the sale of moveable assets and real estate property (regardless of where the property is located) at the global rate of 34.5 per cent for 2013 (19 per cent plus social contributions at the rate of 15.5 per cent). Capital gains on the sale of the main residence are, however, tax-exempt.

Non-resident individuals' capital gains on the sale of real estate are only taxed in France when the property transferred is situated in France. They are determined on the same basis as for a French resident. The taxable capital gain is the difference between the sale price and the purchase price plus purchase costs and is subject to a withholding tax of 33.3 per cent, reduced to 19 per cent for a resident of a EEA member state and increased to 75 per cent for residents of a non-cooperative state.

From 1 January 2013 an additional tax varying from 2 per cent to 6 per cent applies when the taxable capital gain exceeds €50,000. As a general rule, the same treatment also applies to the sale of shares in a company (French or foreign) whose assets mainly consist of real property.

Since 18 August 2012, non-resident individuals' capital gains on the sale of French real estate property are also subject to social contributions at the rate of 15.5 per cent. As already mentioned, an infraction procedure has been initiated against this rule.

Capital gains from the sale of securities or shares by a French resident are subject to the progressive tax scale with a marginal rate of 45 per cent. Social contributions at the rate of 15.5 per cent are also due.

A non-resident individual's capital gains from a sale of securities or shares are taxed only if his or her participation, together with the participations of his or her spouse, ascendants (that is, those from whom a person is descended, for example parents and grandparents) and descendants exceeds 25 per cent of the shareholding in a resident company subject to corporate income tax at any time during the previous five years. At present, the tax rate is 45 per cent.

Tax treaties may provide for exemptions.

At the time of writing, the draft Finance Bill for 2015 is being discussed before the French parliament.

4 What, if any, taxes apply if an individual makes lifetime gifts?

Liability to French gift and inheritance taxes is determined by the donor's and donee's residence (or the deceased and heir's residence), as well as the location of the assets transferred.

When the donor (or deceased) is a resident of France or when the donee (or heir) has been so for at least six out of the preceding 10 years, all moveable and real property (wherever situated) transferred without valuable consideration is liable to tax in France.

When the donor (or deceased) and the donee (or heir) are both resident outside of France, only moveable and real property situated in France is liable to French gift or inheritance taxes in these circumstances.

Tax treaties may modify the above rules.

As a general rule, gift taxes apply to the beneficiary's net entitlement, after applying tax-free allowances (see below) and deducting liabilities under certain strict conditions.

Allowances

The allowances that can be transferred free from inheritance and gift tax depend on the transferor's relationship with the beneficiary. The allowances for 2014 are as follows:

- parents and children in the direct line: up to €100,000 for each 15-year period;
- brothers and sisters: up to €15,932 for each 15-year period;
- nephews and nieces: up to €7,967 for each 15-year period;
- lifetime gifts made to a spouse or partner: up to €80,724 for each 15-year period;
- lifetime gifts made to grandchildren: up to €31,865 for each 15-year period;
- lifetime gifts made to great-grandchildren: up to €5,310 for each 15-year period;
- lifetime gifts made to disabled people: up to €159,325 for each 15-year period; and
- bequests made to other beneficiaries: up to €1,594.

Rates

Gift tax rates do not depend on the beneficiary's wealth. Rates vary according to the family relationship between the transferor and the beneficiary, with it being specified that reduced rates can apply to gifts depending on the transferor's age.

The gift rates for 2014 are as follows:

- transfers to parents and children in direct line are taxable at progressive rates varying from 5 per cent (under €8,072) to 45 per cent (over €805,677);
- transfers by lifetime gift to a surviving spouse or partner of a PACS (civil union) in the case of an inter vivos gift are also taxable at progressive rates varying from 5 per cent (under €8,072) to 45 per cent (over €1,805,677);
- transfers to brothers and sisters are taxable (when the amount transferred is over €15,932) at the following rates: 35 per cent up to €24,430 and 45 per cent over €24,430;
- transfers to fourth-degree relatives are taxable at the rate of 55 per cent; and
- transfers to relatives greater than fourth degree and other beneficiaries are taxable at the rate of 60 per cent.

Exemptions

From 22 August 2007, cash gifts of up to €31,865 to children, grandchildren, great-grandchildren (or nephews and nieces, in the absence of direct descendants) are exempt from gift tax if, at the time of the donation:

- the donor is under 80 years old (for gifts made since 31 July 2011); and
- the beneficiaries are over 18 years old or emancipated (that is, a child over 16 years old that has acquired legal capacity from a judge).

5 What, if any, taxes apply to an individual's transfers on death and to his or her estate following death?

Inheritance taxes are also calculated on the beneficiary's net entitlement after applying the same tax-free allowances as for gift taxes (see question 4) and deducting liabilities.

Rates

The inheritance tax rates do not depend on the beneficiary's wealth and vary according to the family relationship between the transferor and the beneficiary:

No inheritance tax is payable on transfers to a surviving spouse or partner of a PACS in the case of succession.

In all other situations, inheritance tax applies at the same rates as for gift taxes.

6 What, if any, taxes apply to an individual's real property?

Inheritance and gift taxes

In principle, France levies inheritance and gift tax upon transfer without consideration of all real property (wherever situated) owned by French residents. Tax treaties may, however, provide otherwise. France always levies inheritance and gift taxes on non-resident owners' real property situated in France, even if the transferor and the beneficiary are both resident outside France. The same treatment also applies to the transfer of shares in foreign companies whose assets are mainly composed, directly or indirectly, of real property located in France.

The same rates and rules apply irrespective of whether the beneficiary is resident or non-resident in France.

Registration fee

When real property located in France is transferred by gift, a registration fee must be paid in addition to gift tax.

Transfer duties and notaries' fees

The purchase of real estate located in France is subject to transfer duties and notaries' fees at a global rate of approximately 6.20 per cent.

The purchase of shares in a company (French or foreign) that directly or indirectly owns French real property with a value representing more than 50 per cent of its total French assets is also subject to transfer duties at a rate of 5 per cent (applying to the market value of the property after deduction of the sole debts incurred for the acquisition of the property).

The above taxes apply irrespective of whether the buyer is a French resident or not.

Local property tax

The tax base and rates of local property taxes are set up by local authorities and vary significantly according to the location and size of the property.

Any owner of real property, whether an individual or a corporate entity, must pay local property tax on any developed or undeveloped property in the municipality where the property is located.

Wealth tax

Resident taxpayers are liable to wealth tax on their worldwide assets whereas non-resident taxpayers are only liable to wealth tax on their French assets. In particular, non-residents are subject to wealth tax on their capital assets located in France, with the exception of financial investments made in France (eg, shares, securities, bonds, deposits). Most treaties impose French tax on property situated in France.

Wealth tax is payable only by individuals whose private wealth, after the deduction of debts, exceeds a certain limit on 1 January each year (€1.3 million for 2014).

For 2014, individuals liable to wealth tax will be subject to a flat rate applicable to their whole estate. The rate will depend on the value of their net assets:

- up to €800,000: zero per cent;
- €800,000 to €1.31 million: 0.50 per cent;
- €1.31 million to €2.57 million: 0.70 per cent;
- €2.57 million to €5 million: 1 per cent;
- €5 million to €10 million: 1.25 per cent; and
- more than €10 million: 1.5 per cent.

7 What, if any, taxes apply on the import or export, for personal use and enjoyment, of assets other than cash by an individual to and from your jurisdiction?

See VAT in question 8.

8 What, if any, other taxes may be particularly relevant to an individual?

VAT

French legislation has applied the VAT Sixth Community Directive since 1 January 1979. Article 256, I of the FTC provides that the sale of goods, the delivery of assets and the supply of services for payment by a taxpayer are subject to VAT. This extremely broad definition contains a certain number of exceptions, which are set out in the FTC. However, some exempt transactions may be rendered taxable if the appropriate elections are made.

The standard rate is 20 per cent. A reduced VAT rate of 7 per cent applies to certain goods and services (agriculturally based products, non-reimbursable medications, books, etc) and a reduced VAT rate of 5.5 per cent applies to basic necessities such as food products, etc. Nevertheless, a number of specific rates should be added to this list (newspapers, for example) as well as various specific rates applicable in Corsica and the overseas territories.

9 What, if any, taxes apply to trusts or other asset-holding vehicles in your jurisdiction, and how are such taxes imposed?

Up until the adoption of the law of 29 July 2011 (the New Law), France had no tax legislation dealing with the tax treatment of trusts in respect of gift and inheritance taxes as well as wealth tax. As a consequence, trusts benefited from a very favourable tax treatment in France.

However, to counter the exploitation of what were perceived as loopholes, the New Law introduced a comprehensive gift, inheritance and wealth tax regime for the taxation of trusts.

Inheritance or gift tax

Since 31 July 2011, inheritance or gift tax applies either:

- at the time the trust assets are transferred to the beneficiaries; or
- on the death of the settlor (if earlier).

The beneficiaries are liable for the payment of gift or inheritance tax, which is assessed on the value of the trust assets at the time. The tax rate is determined in accordance with the relationship between the settlor and the beneficiary (see question 4).

If it is not possible to ascertain the shares of the beneficiaries in the trust fund on the death of the settlor, the trustee and the beneficiaries are jointly liable for the payment of tax, at the rate of:

- 45 per cent, if the class of beneficiaries only contains descendants of the settlor; or
- 60 per cent, if the class of beneficiaries contains non-descendants.

The 60 per cent rate will always apply if the trust either:

- is governed by the law of other non-cooperative states or territories; or
- was settled by a French resident after 11 May 2011.

Wealth tax

Since 1 January 2012, the settlor (or the beneficiaries treated as 'deemed settlors') must pay French wealth tax on assets held in any kind of trust (including an irrevocable discretionary trust) if either the settlor (or the beneficiary 'deemed settlor') is a French resident, or the trust fund contains taxable French assets.

After the death of the settlor, the beneficiaries who become 'deemed settlors' are subject to wealth tax.

A specific tax applicable to trusts is also being introduced, at a rate of 1.5 per cent. A catch-all provision provides that the trustee is liable for this tax jointly with the settlor and the beneficiaries if either the trust assets are not included in the settlor's or the beneficiaries' estates for wealth tax purposes.

Trust assets have not been disclosed to the tax authorities when the settlor is not liable to wealth tax.

10 How are charities taxed in your jurisdiction?

Tax exemption for qualifying purposes

As a general rule, a favourable tax regime applies to public utility foundations. Article 206-5 of the FTC provides that public utility foundations benefit from a corporate tax exemption in respect of their income deriving from non-profit activities.

Donations from individuals

Individuals making donations to public utility foundations and foundations under the aegis of a public utility foundation can deduct 60 per cent of the contribution from their French income tax, up to 20 per cent of the donor's taxable income (article 200-1 of the FTC).

Trusts and foundations

11 Does your jurisdiction recognise trusts?

The concept of a trust is alien to the French Civil Code. French law has no doctrine of trusts. There is no distinction between legal and equitable ownership. Therefore, creating a trust under French law is impossible. The French fiducie, adopted in February 2007, is a very different institution and cannot be seen as an alternative structure to the common law trust, either conceptually or functionally.

Although it is not possible to create a trust under French law, French courts recognise the effects in France of common-law trusts, provided they comply with the mandatory rules of French law.

12 Does your jurisdiction recognise private foundations?

Foundations cannot be used in France for estate planning purposes and are controlled by a representative of the government. They only acquire legal personality and the right to receive gifts or legacies upon special authorisation, which can only be granted under very strict conditions and provided that the only purpose of the foundation is to promote public welfare. Foundations can only be set up for cultural, scientific or charitable purposes and cannot be considered as a substitute for trusts (except, to a limited extent, in the case of charitable trusts).

Same-sex marriages and civil unions

13 Does your jurisdiction have any form of legally recognised same-sex relationship?

A same-sex couple as well as two persons of the opposite sex can conclude a contract to organise their life in common (PACS). They are not treated as spouses for succession purposes but they are fully exempt from inheritance tax.

Since 17 May 2013 a marriage can be contracted by two persons of the opposite sex pursuant to article 143 of the CC. Married couples can choose their matrimonial regime by marriage contract before getting married, which they may change during the marriage.

See question 16.

14 Does your jurisdiction recognise any form of legal relationship for heterosexual couples other than marriage?

See question 13.

Succession

15 What property constitutes an individual's estate for succession purposes?

French civil law makes no distinction between legal and equitable ownership.

Please note, however, that under French law, ownership can be divided into two distinct elements: usufruct and bare ownership. Article 578 of the French Civil Code defines usufruct as the right to enjoy property owned by another as if one were the beneficial owner, but subject to a duty to conserve its substance. Although a usufruct that allows a person to use the property and to receive any income thereon bears some resemblance to the common law concept of 'life interest', the two concepts are significantly different.

A usufruct comes to an end with the death of the usufructuary, as a result of the expiry of the period for which it was granted or by reuniting in the same person the two qualities of usufructuary and bare owner. A usufruct may be created by operation of law (eg, the rights of a surviving spouse) or by gift or sale. Although generally granted for life, usufruct may also be for a fixed term.

16 To what extent do individuals have freedom of disposition over their estate during their lifetime?

Lifetime freedom of disposition can be restricted under certain circumstances due to applicable ownership rules or family relationships.

Co-ownership

The Law of 10 July 1965 defines all the rights and obligations of co-owners concerning estate administration. A co-ownership agreement must be signed by all co-owners. Each co-owner can dispose of his or her private part of the property and, in principle, has the right to sell, give and bequeath it (unless prohibited by the co-ownership agreement).

Matrimonial regimes

Spouses can enter into a contract before marriage to regulate their property rights but they may also change it during marriage. When a spouse transfers property, it is essential to refer to the marriage contract, which may contain clauses affecting the division of assets held as common property.

If a couple marries without a contract, they automatically fall under the regime of 'community reduced to acquisitions'. Moveable and real property owned separately at the time of the marriage, or subsequently acquired by gift or inheritance, remain the sole property of the original owner. Common property is then limited to the assets acquired by the couple during the marriage. Both spouses hold a 50 per cent interest in the common property and can dispose of their share in the common property by will.

If the spouses choose not to apply the community reduced to acquisitions regime, the French Civil Code provides two main alternatives:

- the separation of property: each spouse retains the administration of his or her present or future property and has the free enjoyment and disposition of both capital and income; therefore, each spouse can dispose of all his or her property by will; and
- the universal community: all of the assets acquired by the spouses before or after the marriage are common property. Each spouse holds a 50 per cent interest in the assets composing the common property and can, therefore, dispose of his or her share in the common property by will.

A person living with the deceased without being married (such as a common-law spouse or a civil partner) is not acknowledged by the intestate succession rules and is treated as a third party.

Forced heirship rules

There is a forced heirship regime. Dispositions of property made in contravention of forced heirship rules are valid, but they can be reduced to protect the hereditary reserve (see question 17).

17 To what extent do individuals have freedom of disposition over their estate on death?

Forced heirship rules

Under the French forced heirship rules, a certain portion of the estate (hereditary reserve) cannot be disposed of by lifetime gift or will other than to descendants and, under certain conditions, to the surviving spouse.

The remaining portion of the estate that can be freely disposed of depends on the number of children the deceased had:

- one child: 50 per cent;
- two children: one-third; and
- three children or more: 25 per cent.

If the deceased does not leave descendants, the surviving spouse is entitled to 25 per cent of the estate, provided that no divorce proceeding is pending.

Other restrictions

Two other restrictions to the freedom of disposition on death may apply:

- the prohibition of covenants on future inheritance: any agreement that purports to allocate assets falling within a future estate to the future heirs is prohibited unless it is made according to the provisions of the French Civil Code; and
- the prohibition of 'substitutions': any provision under which a donee or an heir is obliged to conserve property and transfer it to a third party is prohibited, except in the cases expressly allowed by the law.

18 If an individual dies in your jurisdiction without leaving valid instructions for the disposition of the estate, to whom does the estate pass and in what shares?

Applicable law

Unlike many other civil law countries, France applies its laws of succession to all immoveable property located within France at the date of a non-French domiciliary's death, but looks to the law of the deceased's place of domicile to govern succession to moveables (see question 20).

Devolution of intestate estates under French law

In the absence of a valid will, article 731 of the French Civil Code establishes five hierarchical categories of heirs:

- children or their descendants inherit from their parents, grandparents and other ascendants. They inherit equal, per capita shares, without any distinction on the basis of sex or primogeniture and irrespective of whether they are legitimate children from different marriages, illegitimate children or illegitimate children of adulterous origin (where one parent is married to a third person at the time of conception) with the exception in the last case of children born in the marriage during which they were conceived. The presence of such descendants excludes all other relatives. Moreover, descendants of a predeceased child are allowed to inherit by 'representation';
- parents and brothers and sisters share the estate if the deceased had no living descendants in accordance with the following principles:
  - if there are no living parents, the brothers and sisters (including half-brothers and sisters), or their surviving descendants are entitled to the whole estate. All other relatives are excluded;
  - if there is one surviving parent, the brothers and sisters share three-quarters of the estate between them and the other quarter goes to the surviving parent;
  - if both parents are living, the brothers and sisters receive 50 per cent of the estate and the remaining 50 per cent is shared equally between the parents; or
  - if both parents are living but there are no brothers and sisters, the parents receive the entire estate (50 per cent for the mother and 50 per cent for the father);
- grandparents, etc: if there are no living parents or brothers and sisters or their descendants, the surviving grandparents or other ascendants in each line (the father's family is one line, the mother's family is another) share half the estate between them. If there are no ascendants in one line the estate devolves entirely to the ascendants in the other line;
- ordinary collateral relations (cousins, uncles, aunts): if there are no descendants, ascendants, brothers or sisters on either side of the family, the nearest relations in each family line share half the estate between them on a per capita basis. However, collateral relatives do not inherit beyond the sixth degree; if there are neither any closer relatives nor a surviving spouse (see below), the state will be entitled by the court to take over the estate; and
- the surviving spouse has varying rights depending on whether the deceased leaves descendants:
  - if there are only descendants from both spouses, the surviving spouse can elect to receive either the whole of the estate in usufruct or a quarter in full ownership;
  - if the deceased leaves descendants who are not also the descendants of the surviving spouse, the surviving spouse receives a quarter of the estate in full ownership without the option to receive the usufruct;
  - in the absence of descendants, a distinction should be made depending on whether the deceased leaves either of his or her parents. The surviving spouse receives half of the estate if both the parents survive and three-quarters if only one of the deceased's parent survives; and
  - finally, in the absence of descendants and surviving parents, the surviving spouse is entitled to the whole of the estate even if siblings survive.

Moreover, the spouse can claim a life right to inhabit the principal accommodation that is part of the estate (article 764 CC). It should also be noted that a person living with the deceased without being married (including those having the status of a common-law spouse or PACS), is not acknowledged by the intestate succession rules and is treated as a third party.

People who have concluded a PACS are not treated as spouses for succession purposes (see above), but they are fully exempt from inheritance tax (see question 5).

19 In relation to the disposition of an individual's estate, are adopted or illegitimate children treated the same as natural legitimate children and, if not, how may they inherit?

See question 18.

20 What law governs the distribution of an individual's estate and does this depend on the type of property within it?

Succession to an intestate's moveable property is governed by the law of the individual's domicile at the time of death. Succession to an intestate's immoveable property is governed by the law of the country where it is situated.

French courts never refer succession questions concerning immoveable property situated in France back to the foreign national's home country.

21 What formalities are required for an individual to make a valid will in your jurisdiction?

There are two main forms of wills under French law:

- holographic will: this must be handwritten by the testator but does not need to be witnessed. This is the most common type of will; and
- authentic will: this must be made in the presence of a notary and two witnesses.

As a general rule, French law permits a foreign person who is not domiciled in France to make a will under the law of any country, provided it is valid under the law of that country.

22 Are foreign wills recognised in your jurisdiction and how is this achieved?

Wills valid in another jurisdiction are recognised as valid in France. French law also recognises the effect of a foreign grant of representation.

Although it is possible for a foreign will to cover French assets, it is generally recommended to have a French will covering assets in France. Care should be taken that the two wills (French and foreign) do not overlap and that one does not revoke the other.

23 Who has the right to administer an estate?

Either the heirs collectively or a representative designated by the will administer the estate. The role of the executor is different from that in many countries. His or her powers are only supervisory and his or her role lasts for up to two years.

24 How does title to a deceased's assets pass to the heirs and successors? What are the rules for administration of the estate?

Heirs are deemed to inherit property from a deceased person immediately upon death without a common law estate administration (thus the distinction between common law 'probate' and civil law 'succession').

Establishing title and gathering in assets

Under French law, there is no procedure to prove a will. The nearest equivalent to a grant of representation is an affidavit drafted by a notary. It is prepared by the person who acts in the estate and certifies the persons who are entitled to inherit from it.

Procedure for paying taxes

Inheritance tax is imposed on the recipient. Any other transfer by reason of death is subject to tax, payable by the heirs, on condition that they accept the property. The heirs must pay the inheritance tax within six months of the death if the deceased was a French resident and within one year if he or she was a non-French resident.

Distributing the estate

The concept of personal representatives does not exist in French law. It is therefore necessary to have arrangements to vest the deceased's property in the beneficiaries, which will depend on whether the deceased died intestate or left a will:

- in the case of intestacy, French law determines the persons who are entitled to inherit, namely the heirs. As a general rule, a share of the deceased person's estate is attributed to each heir on acceptance of the inheritance, without the requirement for any further action (see question 16); and
- in the case of a will, the testator decides to allocate, by inter vivos gift or legacy, a part of his or her estate to the person he or she chooses, provided that this complies with the forced heirship rules (see question 17).

25 Is there a procedure for disappointed heirs and beneficiaries to make a claim against an estate?

Heirs can challenge a will if the forced heirship rights have not been respected.

Only reserved heirs (ie, those entitled under the forced heirship regime) can bring a court action to challenge gifts made by the deceased during his or her life that harm their heirship rights. The reserved heirs must act within five years of the opening of the succession.

Capacity and power of attorney

26 What are the rules for holding and managing the property of a minor in your jurisdiction?

Under French law a minor (that is, until the age of 18 years) can own assets. Legal administration is, however, attributed either to parents or to a guardian in certain circumstances.

When an heir is a minor, only his or her parents can accept any inheritance on his or her behalf. Until the age of 16, an heir's parents represent him or her and act for him or her.

27 At what age does an individual attain legal capacity for the purposes of holding and managing property in your jurisdiction?

See question 26.

28 If someone loses capacity to manage their affairs in your jurisdiction, what is the procedure for managing them on their behalf?

When a person loses capacity, the law organises his or her protection. Different regimes apply depending on the degree of incapacity. In some cases where the person is of totally unsound mind he or she must be represented by another person. In other cases he or she will only be advised or supervised.

Immigration

29 Do foreign nationals require a visa to visit your jurisdiction?

In principle, foreign nationals entering and staying on French territory must be in possession of a valid entry and stay visa, unless exempt from this requirement. Visa exemption depends on the individual's nationality, the possession of a residence permit for France or a Schengen state, the duration of the stay and where on French territory the individual intends to stay.

TIRARD, NAUDIN
SOCIÉTÉ D'AVOCATS

Maryse Naudin **tirard.naudin@online.fr**

9 rue Boissy d'Anglas
75008 Paris
France

Tel: +33 1 53 57 36 00
Fax: +33 1 47 23 63 31
www.tirard-naudin.com

As a general rule, only nationals of member states of the European Union and the European Economic Area, Andorra and Monaco are exempt from entry and long-stay visa requirements.

30 How long can a foreign national spend in your jurisdiction on a visitors' visa?

A short stay is a stay in the Schengen Area lasting less than 90 days or a succession of stays totalling less than 90 days in any period of six months. For short stays, European regulations specify the list of countries whose nationals are exempt from visa requirements to enter the Schengen Area.

31 Is there a visa programme targeted specifically at high net worth individuals?

No.

32 If so, does this programme entitle individuals to bring their family members with them? Give details.

Not applicable.

33 Does such a programme give an individual a right to reside permanently or indefinitely in your jurisdiction and, if so, how?

Not applicable.

34 Does such a programme enable an individual to obtain citizenship or nationality in your jurisdiction and, if so, how?

Not applicable.

Getting the Deal Through

Acquisition Finance
Advertising & Marketing
Air Transport
Anti-Corruption Regulation
Anti-Money Laundering
Arbitration
Asset Recovery
Aviation Finance & Leasing
Banking Regulation
Cartel Regulation
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Copyright
Corporate Governance
Corporate Immigration
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Dominance
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