

**TAX ALERT - June 2025**  
**News of interest for the real estate sector**

For further information,  
please contact:

Sybille Salmon-Legagneur  
E: [ssalmon-legagneur@sl-avocats.fr](mailto:ssalmon-legagneur@sl-avocats.fr)

Marie Dessimond  
E: [mdessimond@sl-avocats.fr](mailto:mdessimond@sl-avocats.fr)

**Non-taxation of income from real estate received by a non-for-profit organization (French "OSBL")**

A recent tax ruling<sup>1</sup> confirms the position of the ministerial response 'Beauguitte' (old and not integrated into doctrine) according to which the incomes from real estates of an OSBL (French or foreign) as member of a partnership are not taxable to corporate income tax (CIT)<sup>2</sup>.

**The real estate incomes of an OSBL are not taxable to CIT when the real estate is held directly or via a translucent civil partnership (French SCI)<sup>3</sup>.**

**Examples of VAT issues in real estate transactions**

- Example of deliberate misconducts (with 40% penalty) in the case of undeclared collected VAT on the sale of a real estate and on the invoicing of a service for significant amounts<sup>4</sup>;
- Example of reassessment of the VAT deducted by the purchaser of a real estate, due to challenge of the taxable status of the vendor who had elected for VAT on the sale<sup>5</sup>;

**These cases remind of the necessity to stipulate in the deeds of purchase the consequences in case of challenge by the tax administration of the VAT treatment applied to the transaction (VAT on the sale, VAT regularization or VAT relief).**

**Clarification by the CJEU of the criteria for abuse of the Parent-Subsidiary Directive (CIT exemption on dividends)<sup>6</sup>**

The European Court of Justice recalls that:

- 1) A practice is abusive when two cumulative conditions are met: an objective condition, i.e. a non-genuine arrangement, and a subjective condition, i.e. the obtaining of a tax advantage as the main purpose or one of the main purposes of the arrangement;
- 2) All the facts and circumstances (including those prior to and subsequent to the date in question - in this case, the payment of the dividends) must be taken into account;
- 3) The tax advantage is assessed in relation to the overall tax effect of the arrangement.

**The 3rd clarification is particularly useful given that the concept of tax advantage is not defined by the Directive. In this case, the Court recognizes that the rate of CIT is a relevant factor in assessing whether the main objective, or one of the main objectives, of the subsidiary's existence was to benefit from a tax advantage.**

**Salmon-Legagneur & Associés**  
Avocats à la Cour  
A.A.R.P.I.  
26 avenue George V  
75008 Paris  
[www.sl-avocats.fr](http://www.sl-avocats.fr)

<sup>1</sup> French Tax Administration guidelines BOI-RES-IS-000110 du 21-5-2025

<sup>2</sup> Ministerial answer - Rép. Beauguitte : AN 1-7-1975 no 18984

<sup>3</sup> Company subject to article 8 FTC

<sup>4</sup> CAA de Nantes, 1ère chambre, 04/02/2025, n°24NT01181

<sup>5</sup> CA Pau, 1ère chambre, 10/09/2024, n°23/00802

<sup>6</sup> CJUE 3-4-2025 aff. 228/24, « Nordcurrent group » UAB