

RECENT NEWS REGARDING ANNUAL 3% TAX¹
January 2021

**For further information,
please contact :**

Marie Dessimond
E: mdessimond@sl-avocats.fr

Sybille Salmon-Legagneur
E: ssalmon-legagneur@sl-avocats.fr

Salmon-Legagneur & Associés
Avocats à la Cour
A.A.R.P.I.
62 avenue des Champs-Élysées
75008 Paris
Tel. : +33(0)1 56 89 20 20
www.sl-avocats.fr

1. Dematerialization of the tax forms and required registration in France

As from 2021 the tax forms will be dematerialized requiring each entity concerned including the foreign ones to hold a French Siren number, which allows the opening of an online account with the French tax administration. This registration formalism consists in the filing (i) of the form EEO and (ii) together with the following documents translated in French: copy of its Bylaws, registration certificate with the Commercial Registry or equivalent in the country of origin, mandate.

This provision raises several practical questions partially answered by the administration in the context of a recent dialog with the IACF²:

- **Confirmation that there would be no derogation to the registration obligation, entailing a heavy implementation for the first year for complex chains of ownership with dozen of foreign entities;**
- **Uncertainty on the documents to be provided for the registration of certain entities (trust, investment funds), on the scope of the translations (full or only on main items), and on the registration deadline for the existing entities;**
- **Possibility or not to delegate the access to the French entities' tax online accounts by the certified accountant to the 3% tax representative considering the UBO's confidential information;**
- **Filing on the online account or not of some free annexes (case of complex chains of ownership).**

2. Strict application of the sanctions for late filing of the tax forms

The Supreme Court³ confirms the tax administration's position according to which a company having previously benefited from a favorable measure⁴ could not be granted the possibility to regularize its situation and that consequently the late filing of its tax form could be sanctioned by the reassessment of the 3% tax, surcharge and late interest.

Late compliance of the filing requirement can thus be sanctioned although information allowing to benefit from exemption was in fine provided with in a context where good faith was not questioned. Consequently, the question of a spontaneous regularization should be considered in case a first infringement is raised.

¹ **Reminder** : the French or foreign entities holding directly or indirectly real estate properties in France are liable to an annual 3% tax unless one of the existing exemptions applies, such as the one consisting in the filing of a form on the location/consistency/value of the real properties and on the identity of the direct and indirect shareholders (tax form 2746-SD to be filed at the latest each May 15).

² Institut des Avocats Conseils Fiscaux

³ Cour de cassation, civile, 4 November 2020, n° 18-11.771

⁴ Ministerial Answer Loncle – March 13, 2000 providing for the possibility to regularize a first infringement to the 3% tax.