

## France Adopts Favorable Income Tax Treatment For Inbound Assignees

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To follow up on our report in *Flash International Executive Alert 2003-233* (November 25, 2003) concerning changes to the regime for inbound international assignees, the French government has adopted the proposed changes in the Amended Finance Law for 2003 ("Projet de loi de finances rectificative pour 2003")<sup>1</sup>.

The aim of this legislation is, from January 1, 2004, to permit new international assignees to France to deduct home country social security and pension contributions from French taxable income. Such assignees will also benefit from the tax exemption on supplemental remuneration linked with their assignment. These benefits are subject to certain conditions and limits, which are broadly described below.

### Overview of the Favorable Income and Social Tax Regime

- Expatriate premiums paid to inbound assignees are exempt from French taxation. (Please note that the exempted premiums includes the elements of remuneration paid to the inbound on account of the assignment, i.e., COLA, tax reimbursement payments, etc.)
- Clarification of rules connected with the tax deductibility of home country social security and retirement contributions. Pension contributions are tax deductible under the limits generally applicable to local French employees.

### Overview of Conditions Applicable for New Regime

The conditions that must be fulfilled in order to benefit from the new rules are as follows:

- the employee must be employed by a home country entity and seconded to a company established in France;
- these new measures are only applicable to international assignees arriving in France as from January 1, 2004 (i.e., the regime is not applicable to assignees already in France);
- the employee must not have been considered a French tax resident during the 10 previous years;
- the benefits are available until December 31<sup>st</sup> of the fifth year of assignment only;
- the benefit is limited such that taxable remuneration after consideration of exemptions cannot be less than "normal" remuneration paid to other French employees for similar functions.

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***KPMG Observation***

Regarding the exemption for international assignment-related premiums, the rules are still vague and tax authority pronouncements are not expected before the summer. Briefly, elements directly connected with the assignment would not be subject to tax. There is no guidance yet on what these elements are and what constitutes a safe harbor. Presumably, however, exemptions would apply to typical elements of expatriate compensation such as relocation costs, goods and services allowances, expatriate premiums, and tax and housing differentials. Items that receive preferential tax treatment under the terms of previous legislation would continue to be deductible (e.g., school fees where the costs are justified by the need for a child to follow a specific curriculum or language lessons, etc.).

The law refers to supplemental remuneration, so the starting point for structuring packages may be the base salary within the home country. However, there are further anti-avoidance provisions which mean that the salary subject to tax cannot be less (where exemption is claimed) than the salary earned by an employee in a similar position in either the company itself or generally in France.

The comments above are general in nature. Specific advice would require a review on a case-by-case basis. Please do not hesitate to contact KPMG for further information.

*Footnote:*

1 The Amended Finance Law for 2003 (“Projet de loi de finances rectificative pour 2003”) was approved by the French Parliament on December 18, 2003. The law appeared in the December 31, 2003 Official Journal (“Loi n° 2003-1312 du 30 décembre 2003 parue au *Journal Officiel* n° 302 du 31 décembre 2003”).

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If you desire general international assignment and other tax-related information for France, please see the following KPMG IES publications: *Planning Your International Secondment* ([http://www.us.kpmg.com/microsite/Global\\_IES/PYIS/index.html](http://www.us.kpmg.com/microsite/Global_IES/PYIS/index.html)) and *Taxation of International Executives* ([http://www.us.kpmg.com/microsite/Global\\_IES/TIES/index.html](http://www.us.kpmg.com/microsite/Global_IES/TIES/index.html)).

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