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Resident in France, Resident in the United Arab Emirates: To be or not to be

By: **Hervé Israel, partner**
hisrael@dumon-partners.com

Most, if not all of us, enjoy the business opportunities and the good life in Dubai. However, at one time sooner or later we might have to consider going back to France for personal or business reasons.

It is therefore of the utmost importance to be prepared to face a tax environment which is far from comparable to the one we enjoy in Dubai.

Dubai has begun implementing some of the features of a tax system with the VAT, and in 2023 a corporate taxation mechanism which will allow the UAE to sign more tax treaties in the future and overall make them efficient in their applicability. This cannot be compared to the tax regime in France with its extensive rules of taxation of individuals from almost birth to death.

In this first tax letter, my objective is to comment on four areas of interest for those willing to resettle or settle in France.

Our comments are valid with the current tax environment in France as changes to the French tax rules can occur at any moment due to the rapid change in the situation in Europe and worldwide.

How do you become a French tax resident?



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Under Article 4 of the French tax code, you are regarded as a French tax resident if you meet one of the following criteria during the calendar year.

First, if you have your so-called foyer or family base in France. To make it simple this is the place where your spouse and children habitually live.

Alternatively, you may be a French tax resident if your principal place of residence is in France.

This is a simple time condition. If you spend more than six months in France; taking all stays cumulatively, or if you spend more time in France than abroad in a particular year, you are deemed to be resident.

The notion that you cannot be a French tax resident if your stay in France is not over 183-days is misleading. Your stay could be limited to let's say 120-days and be regarded as a French tax resident if you do not spend at least more than four months in one other country.

Third, if you carry on a business activity in France, whether salaried or self-employed, you will be deemed to be a French tax resident unless you can demonstrate that your French income is in fact secondary in importance to your activities abroad.

Fourth, the French tax authorities may claim that you are a French tax resident if your Centre of economic interests are in France. This is a very large notion which encompasses the situation where your principal investments are in France or if the decisions regarding the management of your affairs are taken from France.

In the introduction, we have indicated that we were dealing with the case of a person willing to cease to be a UAE resident and to become a French resident intentionally.

This will not be an issue as France will be more than happy to treat you as a resident even if you do not fully meet any of these criteria.



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However, if you were not a resident of the UAE, and decide to settle in France, the double tax treaty signed between France and your country of residence must also be considered, as the treaty always takes precedence over the French tax code.

It is to be noted that the tax treaty signed between France and the UAE allows France to apply its domestic criteria. Therefore, the tax treaty does not give any protection to a person wanting to live in France, whilst still enjoying the tax benefits of remaining a UAE resident.

In our next letter, we will draw attention to the succession issues of becoming a French tax resident.

END

Notes to editors:

Hervé is our global Tax Partner based in Dubai. He is graduated of the Ecole Nationale des Impôts (1983), holder of a Masters in Banking and Finance from the University of Paris I Pantheon-Sorbonne (1982) and a Masters in Economic Sciences, Public Economic Option and Economic Policy, from the University of Paris I Pantheon-Sorbonne (1981).

Hervé Israël started his career as an auditor at the DVNI (Department of National and International Verification). In 1988, he joined Pechiney and then took responsibility for group tax management for Europe, Asia and South America at Schlumberger Industries. In 1995, he joined the Caisse Nationale du Crédit Agricole, then became international tax manager at BNP-Paribas. Hervé has been admitted to the Paris Bar since 1996 and worked at Salans law firm, before becoming partner in charge of the tax practice of Lovells (now Hogan Lovells) then of Holman Fenwick Willan. In 2014, Hervé joined the Paris office of DLA Piper and then the law office of Bornhauser in 2017 to create and develop the Tax practice for companies and CEOs-Investors. At the same time, he was a lecturer and associate professor in tax law at the University of Paris X Nanterre from 2010 to 2019.



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Hervé Israël has been involved for nearly 25 years in the tax structuring of French and international transactions, in particular in the structuring and financing of Merger and Acquisition and LBO transactions, asset financing, securitization and acquisition structuring.

Hervé also advises investment funds, companies and managers, in many sectors such as finance, insurance, aeronautics, real estate, maritime transport and energy.

Finally, Hervé assists companies and managers/investors in the context of tax audits and litigation procedures.

Hervé is recognized in tax law by Chambers Partners Europe and The Legal 500 for his “spot-on advice”.

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For further information about this release please contact info@dumon-partners.com

PARIS

7 rue de Prony
75017 Paris
T: +33 1 86 95 58 58
Contact: bmoraga@dumon-partners.fr

DUBAI

Anantara Downtown Business Tower,
Floor 25, Marasi Drive,
Business Bay, Dubai, UAE
T: +971 4 5706601
Contact: bdumon@dumon-partners.com

BEYROUTH

Dora, Centre Moucarri
Beirut, Lebanon
T: +961 3 25 22 06
Contact: esalwan@dumon-partners.com

RAS AL KHAIMAH

Building A1, Al Hamra Industrial Zone-FZ
PO Box 10055, UAE
T: +971 7 2238703 / M : +971 56 263 9707
Contact: bdumon@dumon-partners.com

SUISSE

Rue Saint-Pierre 2
1003 Lausanne
T: +41 21 312 6771
Contact: jbechaalany@dumon-partners.com

www.dumon-partners.com