The implementation of the withholding tax (2019)
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Process

The French withholding tax will come into effect from 1 January 2019. French employers will be required to operate withholding from this date according to the rates communicated to them by the Ministry of Finance in respect of each employee.

• The obligation does not extend to employees who are employed and paid by a non-French employer with no French place of business. In these cases, the employee will be required to make monthly provisional tax payments.

• Owing to the nature of the French tax system the introduction of withholding would in theory leading to taxpayers paying tax on both their 2018 and 2019 income in one year. To avoid this, individuals will receive a tax credit in respect of “non-exceptional” income for 2018 as part of the transition process, effectively removing the individual income tax liability for 2018 for many individuals.

• Employers should develop and implement a detailed plan for the introduction of this new system given its impact on normal payroll and tax compliance obligations as well as on the net income of their employees.
Implementation of the withholding tax (2019)

Calculating and operating the withholding tax

- A coding system will be implemented to allow employers to properly calculate withholding taxes due, so that it will not be necessary to ask questions of employees regarding their personal financial position.

- Individual income tax withholding rates applied by the employer will be calculated by the French tax administration when assessing the individuals’ 2017 income. The appropriate rate will be indicated on the tax bill normally issued in August 2018 and communicated to the employer through the employer’s monthly wage reports, also known as the “Déclaration Sociale Nominative” (DSN). The first tests of the new process will be run by the Ministry of Finance with employers that have volunteered to do so in the final quarter of 2017.

- The employer will have 60 days to apply the appropriate withholding rate communicated by the French tax administration to its payroll. In no event will the employer be allowed to change the withholding rate of an employee once it has been provided by the Ministry of Finance.
Implementation of the withholding tax (2019)

Calculating and operating the withholding tax

• There will, however, be a certain degree of flexibility for an individual to increase or decrease their withholding tax rate. In principle, any adjustment must be requested by the taxpayer via their individual tax portal on the French Ministry of Finance website (impots.gouv.fr). The local tax center will be responsible for calculating the revised withholding tax rate and transmitting this to the individual’s employer through the DSN. The French tax administration will have a maximum of three months to communicate the revised individual income tax withholding rate to the employer. Joint filers may also request separate rates depending upon their respective incomes.

• If for any reason, an individual withholding tax rate is not available or has not been communicated, employers will have no choice but to operate a standard tax rate schedule (the so-called neutral rate) which reflects rates which apply to single taxpayers. For example, this schedule will apply to new taxpayers such as (but not limited to) former students, new hires for the first monthly payslip and new French tax residents, including assignees inbound to France.

• In order to avoid an extensive application of the unfavorable standard tax rate schedule, a registration procedure may be set up for new taxpayers, including expatriates temporarily assigned to France, the details of which are not yet known.
Implementation of the withholding tax (2019)

Implementation process and scope of withholding tax

• The withholding tax system will apply to wages, pension payments, and unemployment allowances paid by French entities. This list is not exhaustive and further advice should be sought if the employer is in any doubt as to whether withholding tax should be operated.

• For income not subject to the withholding tax, such as business income, self-employment income, rental income, and employment income paid by non-French employers, the taxpayer will be required to make provisional monthly income tax payments. This is why taxpayers will have to give the details of a SEPA bank account when filing their 2017 French tax return. Failure to do so will result in rejection of the 2017 French income tax return by the French tax office. The rules for passive income such as interest, dividends, capital gains and equity gains relating to approved schemes for French tax purposes will remain unchanged.

• Both resident and non-resident taxpayers will continue to have an annual French income tax return filing obligation.

Next steps

• Employers should begin to assess how the introduction of a withholding tax system will impact their payroll operations including shadow payrolls, international assignment programs, and tax equalization policies as well as their approach to employee communication on matters of taxation.