March 9, 2017

Dear Client,

We are pleased to announce that from April 3rd, 2017 our new address will be:

20, rue Jean Mermoz
75008 Paris

Our phone number, email address, and client service model will not change. We look forward to seeing you at our new digs.

The 2017 & 2018 U.S. and French tax landscape is going be challenging to navigate. We describe key areas to focus on in the following pages. We welcome you to meet with us to discuss your particular situation so that we can plan for this year and next.

During 2017 and 2018, the French tax system is changing to a “pay as you earn” tax withholding system. During the course of 2017, the Trésor will continue to collect taxes on 2016 income. This is the system that’s been around for decades. There will be no 2017 income taxes imposed on retirement income and regular professional earning, and from January 2018, French professional earnings and retirement income will be subjected to withholding taxes. When you read about the “année blanche” this refers to the decision taken by the French government to NOT collect taxes on 2017 recurring income. You will still need to file a 2017 French income tax return in 2018 so that that tax office can identify exceptional 2017 income and collect taxes on that slice of income.

U.S. Citizens and Resident Aliens residing in France may be harshly affected by the “année blanche” since the U.S. tax system does not make concessions for the French Government’s decision to implement the withholding reform. All 2017 income received by a U.S. person will be subject to U.S. income taxes even if that income is not subject to French income taxes. If you receive professional earnings greater than the foreign earned income exclusion amount, $102,100, that income will be subject to US income taxes. If you don’t pay French income taxes on this income, you may have to pay more 2017 U.S. taxes than usually. Generally speaking, US income taxes on 2017 income should be settled by April 15, 2018 to avoid interest charges. We’ll do our best to help identify your obligation to make an April 15, 2018 tax payment that may be due on income not subject to French income taxes.

It’s not all doom and gloom for U.S. taxpayers residing in France. The United States Court of Appeals in decision its decision of August 5, 2016 (see case No. 4-1215 Ory Eshel v. Commissioner of the Internal Revenue Service) reversed and remanded the U.S. tax court’s earlier decision. As a result, we believe there is currently substantial authority for claiming CSG/CRDS as qualifying taxes on the general limitation form 1116. The case is being reviewed again by the U.S. tax court and we await a new decision.
Horton Tax Services
2017 Newsletter

It may be advisable for U.S. persons to file prior year amended U.S. income tax returns to claim the CSG/CRDS as being eligible for foreign tax credit. We are reviewing our clients’ files now and will do our best to communicate options for how best to proceed. In a perfect world, taxpayers negatively affected by U.S. tax consequences of the “année blanche” might file prior year amended U.S. income tax returns generating credits and refunds that would offset the additional U.S. taxes due on 2017 income that’s not subject to French income taxes.

This past year, the IRS processing center has wrongly assessed many of our clients late filing penalties on timely submitted 2015 U.S. income tax returns. We have a procedure for resolving this. If you receive an assessment for erroneously charged late filing penalties, please forward the complete copy of the assessment to us and we will advise you how to proceed.

We remind you that our clients have the ability to exchange confidential tax information with our office using a trusted internet portal service, SmartVault.com. If you want to establish a Smartvault account or would like us to resend an invitation to establish an account, please send us an email and we’ll get you set up.

Many of our clients have contacted us about their French bank’s request to complete either the “Form W-9”, or “Form W-8”. The banks’ request for this information is the direct consequence of the institutional implementation of the FATCA legislation & protocols that took effect from 2014. If you are a U.S. citizen or Green Card Holder, you should complete Form W-9 when requested. If you are not a U.S. person, you should complete Form W-8 when requested.

Information sharing agreements implemented by the governments of developed countries mean that taxpayers need to report their financial accounts in order to avoid imposition of penalties (or worse). We provide updates about the penalty provisions and suggestions for how to proceed if you are out of bounds with reporting obligations. Often, the penalties for failing to disclose an account exceed the income taxes due on the corresponding income. In addition to the contents found in this newsletter, you’ll find media content in the clients only section of our website that discusses your obligation to report foreign financial accounts and the penalties for failing to do so.

Our toolbox found in the “Clients Only” section of our website contains content that will keep you informed and enable you to effectively analyze and share tax information with us. You’ll find videos, cheat sheets and excel workbooks. We’ll improve these tools and add new ones so please check back regularly.

Details of changes to both the French & U.S. income tax laws follow. (If you are reading a hard copy of this text we encourage you to access the “live” version posted on the clients only section of our website at: www.hortontaxservices.com). The password is “bordeaux”. Rest assured that we do not post confidential client information on our website.

You may book an appointment directly on the calendar posted on the clients only section of our website.

New clients are invited to watch our welcome video that shares information about our practice and provides ideas for sharing information with us in an effective manner.

Due dates for filing the U.S. & French declarations are posted on our website.
Key exchange rates can be found on our website and are as follows:

- For converting 2016 income and deductions to be reported on the 2016 U.S. income tax return, please use 1.0638 USD/EUR. This is the rate suggested by the IRS and as best as we can decipher represents the interbank rate less 4%.
- For the 2017 ISF, FinCEN Form 114 (explained later), and Form 8938 (if applicable) please use the year end FX rate of 1.0537 USD/EUR.
- For converting 2016 income and deductions to be reported on the 2016 French income tax declaration, please use 1.1069 USD/EUR (this is the rate provided by the banque de France).

For U.S. income tax returns submitted to the IRS before the IRS e-file cutoff date (last year this was mid November 2016) we will e-file the declarations unless you advise us not to. You may opt out of e-filing by signing and returning the last page of our checklist. You will be asked to review the tax return before we submit. If you’ve registered for a Smartvault account, we’ll provide you the tax return using the Smartvault.com internet portal. Otherwise, we’ll e-mail you the tax return as a password protected Adobe file. If you are in agreement with the return, we will submit it on your behalf, upon receiving your signed authorization form. If you do not trust the integrity of these proposed methods of transmitting sensitive information, please provide us the signed e-file opt out form.

We offer to send U.S. income tax returns by registered mail or by FedEX if the returns cannot be e-filed. We don’t charge for this service. We maintain a permanent record of registered mail receipts and will share a copy with you on request.

If you would like us to mail you a copy of the income tax return, please let us know by X’ing the box at the top of the second page of the checklist. We no longer charge for this service.

Please select from our toolbox the appropriate tax checklist that should be used depending on your situation. Clients who are impacted by the provisions of the U.S. FATCA legislation (see annex attached) will need to continue to provide us documentation so that the 2016 U.S. “form 8938” can be properly completed as part of the 2016 U.S. income tax return. If you are affected by FATCA, please agree with us the methodology for communicating the necessary information. We are flexible and want to be as efficient as possible.

Our toolbox includes a video and an excel workbook that will allow you to determine if you are subject to the FATCA disclosure rules. You may also use the workbook to organize your information for preparing the FinCEN Form 114 (see next).

FinCEN Form 114 (Previously known as the Form TD F 90.22-1 or “FBAR”)

Starting this season, there is a new deadline for filing the FinCEN Form 114: the due date of the form is now aligned with the US tax return filing date of April 15th and benefits from an automatic 6-month extension. The final deadline for the 2016 FinCEN Form 114 is therefore October 16, 2017. There is no extended deadline for filing this form.

The “Banking Secrecy Act” of 1970 included a provision that requires that U.S. persons report their foreign financial accounts each year if the cumulative balances of those foreign accounts exceeds $10,000 at any time during the year. The form name and the penalty provisions associated with this form have changed over the years. Starting in the 2013 tax year, the form is now called the FinCEN form 114 and must be submitted on the Financial Crimes Enforcement Network’s website.
Our toolbox contains a guide, video, and an Excel template that explain how to prepare and submit the form. A person who willfully fails to report an account may be subject to a penalty equal to the greater of $100,000 or 50 percent of the balance in the account at the time of the violation. Willful violations may also be subject to criminal penalties.

Services we provide, Services we don’t provide, and our General Office Procedures

We prepare U.S. income tax returns, gift tax returns, and in some situations the FinCEN Form 114, and other information returns. We also prepare French income tax returns, Wealth Tax Returns (ISF), and the new French “trust” declarations. We provide these declarations with filing instructions (on the “client copy” of the declaration). We encourage our clients to send their tax returns by registered mail so that the client has proof that the tax office received the tax return. A few euros paid to La Poste could save thousands of euros in late filing penalties.

We need to invoice for our investment in assisting with responding to tax notices. We will endeavor to provide a fee quote for our assistance with these replies before commencing work.

We do not routinely assist with matters related to “taxe d’habitation, taxes foncières, redevance audiovisuelle”, or other administrative concerns. We can provide follow-up on such matters, but we will bill for the extra time spent. This type of assistance is not included in our regular service or fee.

The IRS continues its international compliance initiative, and some U.S. taxpayers will be selected for examination. Typically, these examinations focus on the foreign tax credit. Our hourly rates apply in assisting with such examinations and we will do our best to provide an estimate of the expected time for assisting with each examination.

Our fee quotes are based on the assumption that you will provide us with complete, clear information, and only routine follow-up will be required. If we have to follow-up with multiple phone calls and e-mails to obtain missing data and explanations, it results in more time spent by us and thus an increased fee.

We generally process files on a “first in, first out” basis. Upon receipt of complete information, we log your file into our database. We will do our best to notify you if the information you have provided is insufficient to commence work. Once you provide us with complete information, your file will be logged in for processing.

We issue our invoices with the tax returns (or letters), and we request that clients settle their accounts timely so that we can limit the administrative time dedicated to our accounting. Clients who habitually pay late may be asked to pre-pay fees the following year.

We do not share your information with any third party and we do not accept or pay referral fees.

Best Regards,

Steven R. Horton, CPA
2016 U.S. Income Tax Update

$ The American Taxpayer Relief Act of 2012 (ATRA) replaced the 35% bracket with a 39.6% rate. The rates have remained the same since 2013 however they have been adjusted for inflation. For instance, below is the income threshold for each filing status at the 39.6% bracket.

- Married Filing Jointly: $466,951
- Qualifying Widow(er): $466,951
- Head of Household: $441,001
- Single: $415,051
- Married Filing Separately: $233,476

$ The 20% tax rate on qualified dividends and long-term capital gains in 2016, for taxpayers in the 39.6% tax bracket, is still applicable.

$ The phase-out for itemized deductions continues. The total of your itemized deductions is reduced by 3% of the amount above Adjusted Gross Income (AGI) of $259,400 ($311,300 for married filing jointly and 285,350 for head of household). This limitation cannot reduce deductions by more than 80% and does not apply to deductions for medical expenses, investment interest, casualty and theft losses, and gambling losses.

$ In addition, the phase-out for personal exemptions continues. This reduces the personal exemption for taxpayers and dependents by 2% for each $2,500 that the taxpayer's AGI exceeds $259,400 ($311,300 for married filing jointly and 285,350 for head of household).

$ Calculating the Unearned Income Medicare Contribution Tax. This tax is commonly referred to as the Net Investment Income tax (NIIT)

- The 3.8% NIIT is in addition to any regular income taxes, and applies to the lower of net investment income for the year, OR modified adjusted gross income over a certain threshold amount.

- Net Investment Income, for the purposes of calculating the unearned income Medicare contribution tax, includes: interest, dividends, capital gains, annuities, royalties, rentals, and pass-through income from a passive business, such as S-corporations, and partnerships.

- Non-grantor trusts are particularly affected by this new tax since trusts have a lower income threshold for purposes of computing the NIIT. The following types of income will not be subject to this additional Medicare tax: tax-exempt municipal bond interest, nontaxable veteran’s benefits, capital gains excluded from the sale of a principal residence, and distributions from IRAs, 403(b) plans, 401(k) plans, 457 plans, pensions, profit-sharing plans, stock bonus plans, or qualified annuity plans.
Modified adjusted gross income (MAGI) thresholds for the additional Medicare tax are:

- $250,000 for married filing joint filers and qualified widows or widowers
- $200,000 for single and head of household filers
- $125,000 for married filing separately filers

Taxes arising as a result of the NIIT are unable to be offset by foreign taxes paid.

*Note that MAGI is computed by adding the foreign earned income and housing exclusion (as applicable) to adjusted gross income.

$ The foreign earned income exclusion for 2016 is $101,300.

$ Recipients of gifts from foreign corporations or partnerships may be required to report if the total amount of gifts received in the year exceeds $15,671.

$ The U.S. social tax rate for employees and employers is 6.2% up to $118,500 of earnings. The Medicare withholding rate for employees and employers is 1.45%, with no limit. Employees are subject to an additional 0.9% withholding rate on wages in excess of $200,000. The self-employment tax rate is 15.3% (16.2% on income above $200,000 [$250,000 if married filing jointly]).

$ The contribution limit for Roth and traditional IRAs has been maintained at $5,500 for 2016. For those aged 50 or over, the limit is $6,500. The contribution deadline is April 17, 2017.

$ The annual gift exclusion limit for 2016 is maintained at $14,000 per individual. One may gift $14,000 to any individual without having to file a gift tax return. (Making gifts over this amount does not necessarily mean that gift taxes will be due).

$ The estate tax exclusion for 2016 is $5,450,000, and is indexed for inflation each year. The top tax rate at 40% for persons who die after December 31, 2012 is still applicable.

$ Same sex marriages are recognized for Federal income tax purposes, which means affected couples may elect to file using the married filing jointly filing status. Otherwise, these individuals must submit their U.S. income tax returns with the “married filing separately” status (as opposed to the “single” filing status previously). Amended returns can be filed for affected years as appropriate.

$ Signed into law on July 31, 2015 a new bill alters the filing due dates for some US tax forms. Listed below is the tax form and new due date. These due dates take effect for tax years beginning after December 31, 2015, and will only be applicable for 2016 tax returns being filed in calendar year 2017. Form 1065 (Partnerships) and 1120-S (S Corporations) are now due on March 15 with a 6-month extension available.

$ Form 1041 Trust returns will still be due April 18th however the extension available will only be for 5 1/2 months.
$ FinCEN Form 114 (commonly known as the "FBAR") will be due April 18th with an automatic 6-month extension available. Specific requests for this extension are not required.

$ The Affordable Care Act (ACA), starting in 2014, introduced an "Individual Shared Responsibility Provision", whereby each individual is required to have minimum essential coverage for each month, qualify for an exemption, or make a payment when filing their Federal Income Tax return. The impact for individuals whose residence is outside of the U.S. is negligible as they are available for an exemption and are not subject to any additional tax, however, a particular form must be attached to your return to state as such. If you reside in the US, and you have coverage through your employer, the additional requirement for you is to check the "Full-year coverage" on Line 61 of the 2016 Form 1040.

2017 U.S. Income Tax Update

$ Income tax brackets have not changed, except for inflation adjustments. For example, the 39.6% tax bracket now takes effect at $470,700 for Married Filing Joint taxpayers (compared to $466,951 previously).

$ The contribution limit for Roth and traditional IRAs remains at $5,500 for 2017. For those aged 50 or over, the limit is $6,500. The contribution deadline is April 15, 2018.

$ The foreign earned income exclusion increases to $102,100.

$ The annual gift exclusion limit for 2017 remains at $14,000. However, the federal estate and gift tax exemption will increase to $5.49 million per individual in 2017, compared to $5.45 million in 2016. A married couple will be able to protect up to $10.98 million from federal estate and gift taxes.
2016 French Income Tax Update

The 2017 Finance Law brings a small increase in taxation for 2016 taxpayers, and implements relatively few changes from last year. It continues specific steps in the move toward the electronic filing and payment of taxes. It is expected the Presidential elections may have a significant impact on the scheduled reforms.

€ **E-filing** of French tax declarations is now **mandatory** for taxpayers who have internet access and whose income exceeds certain thresholds. For 2017, taxpayers whose 2015 reference income exceeds 28,000€ are required to e-file on the French government website [http://www.impots.gouv.fr](http://www.impots.gouv.fr). The threshold will decrease to 15,000€ for 2018. From 2019, e-filing will be mandatory for all taxpayers. The penalty for not e-filing of 15€ applies as of the 2nd year of non-compliance.

€ **E-payment** of all French taxes (income tax, taxe d'habitation, taxes foncières, social taxes (CSG/CRDS/prélèvements sociaux), French wealth tax ISF (for patrimony between 1.3€M and 2.57€)) is also becoming mandatory via monthly debit, programmed debit, or for amounts exceeding 2,000€ (down from 10,000€) for taxpayers who have internet access and whose income exceeds certain thresholds. The threshold will decrease to 1,000€ for 2018. From 2019 e-payment will be mandatory for all payments over 300€. The penalty for non-compliance is 0.2% of the amount due with a minimum penalty of 15€.

€ Small revisions to the progressive tax brackets for 2016. They reflect a 0.1% average inflation rate for 2016. Brackets are as follows for 2016 taxable incomes in €:

<table>
<thead>
<tr>
<th>Income Range</th>
<th>Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 9,710</td>
<td>0</td>
</tr>
<tr>
<td>From 9,710 to 26,818</td>
<td>14%</td>
</tr>
<tr>
<td>From 26,818 to 71,898</td>
<td>30%</td>
</tr>
<tr>
<td>From 71,898 to 152,260</td>
<td>41%</td>
</tr>
<tr>
<td>Over 152,260</td>
<td>45%</td>
</tr>
</tbody>
</table>

€ The high earn er’s tax (impôt sur les hauts revenus) reference income brackets and flat rates are unchanged and as follow:

<table>
<thead>
<tr>
<th>Joint filers</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 500,000</td>
<td>0</td>
</tr>
<tr>
<td>From 500,001 to 1M</td>
<td>3%</td>
</tr>
<tr>
<td>Over 1M</td>
<td>4%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Single filers</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 250,000</td>
<td>0</td>
</tr>
<tr>
<td>From 250,001 to 500,000</td>
<td>3%</td>
</tr>
<tr>
<td>Over 500,000</td>
<td>4%</td>
</tr>
</tbody>
</table>
Since 2013, an employer’s contribution to a supplemental health insurance plan is deemed income to the employee. This applies to insurance for medical costs due to illness, maternity or accident. The ceiling for deduction of the employee’s contributions is lowered accordingly.

A reminder that the additional mark-up (generally 10%) on French pension amounts received by persons having raised three or more children is taxable.

The 10% standard deduction on salaries is capped at 12,183€ (12,170€ in 2015) and at 3,715€ for pensions (vs. 3,711€).

At-source 2017 withholding rates on salaries and pensions paid to non-residents are as follows:

<table>
<thead>
<tr>
<th>Salary/Pension Range</th>
<th>Withholding Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 14,461€</td>
<td>0%</td>
</tr>
<tr>
<td>14,461€ to 41,952€</td>
<td>12%</td>
</tr>
<tr>
<td>Over 41,952€</td>
<td>20%</td>
</tr>
</tbody>
</table>

The deductible imputed child support “pension alimentaire” for a major child not considered to belong to the tax household is 5,738€.

The maximum tax savings resulting from the application of the family quotient to the taxable income is 1,512€ for each half-part (first and second child). For a quarter of a part, the reduction is 756€. The limitation also now applies expressly to nonresidents.

The 2016 ceiling for the deduction for low income earners (‘décote’) is unchanged from 2015 and applies two new amounts as a function of filing status. The new limits are: 1,165€ for single filers and 1,920€ for joint filers. The deduction is equal to the difference between the limit and the theoretical gross tax.

Since 2015, the tax-exempt amount of severance paid to Executive Officers is now limited to 3 times the annual social security ceiling i.e. 115,848€ for 2016. Previously this tax-exempt amount was determined as the higher of either half of the amount of severance received or twice the prior-year gross annual compensation within the limit of 6 times the annual social security limit.

The global cap on tax deductions, credits, and reductions (“niches fiscales”, excluding expenditures for charities, domestic help, and childcare) will remain at €10,000 for 2016, with the exception of DOM-TOM (Girardin), SOFICA, and also the new Loi Pinel “Outre-mer” investments which are capped at €18,000. SOFICA investments will remain in effect until December 31st 2017.

The specific deduction of 75% allowed to organizations for persons in need is limited to the first 530€, allowing a maximum reduction of 398€. The deductible portion of charitable contributions in 2016 to organizations for general interest is 66% of the amount contributed. The maximum reduction may not exceed 20% of taxable income.
Interest and dividends are taxed at progressive rates, except for taxpayers whose income from fixed income investment vehicles does not exceed 2,000€ for the year 2016 (in which case, the flat rate is 24%).

A withholding rate of 24% will apply to interest paid by French banks. This tax at-source is not a final tax, but will instead be credited on the income tax return toward the taxpayer's total tax liability. Additionally, CSG/CRDS of 15.5% applies.

Similarly, a preliminary withholding rate of 21% will apply to dividends (after application of the 40% exemption which remains in place). After including prélèvements sociaux of 15.5%, the total preliminary withholding tax amounts to 36.5%.

The portion of CSG deductible on certain revenues remains 5.1%.

As a reminder, all capital gains realized in 2016 are taxed at progressive rates, up to 45%. If the withholding is higher than the tax calculated according to the progressive tax rates, a refundable credit will be granted. Taxable gains include those realized from the sale of real estate and of shares in real estate companies not subject to income tax. Newly allowed capital gains distributions by mutual funds are also taxable, but not gains from the sale of carried interests or gains distributions by some professional investment funds.

The 'prime d'activité' managed by the Caisse d'Allocations Familiales (CAF) replaces the 'prime pour l'emploi' as of January 1st 2016 and applies to employees or independent contractors with revenue below 1500 € per month.

For U.S. citizens with U.S. source capital gains that are taxed in the U.S., as provided for in the U.S. & French income tax treaty, the U.S. gains should be reported. In earlier years the technical requirement to report the U.S. gains was often ignored since the gains did not affect the French income taxes. We have included a video in the toolbox which explains different methods you may decide to adopt to report the U.S. gains (if any).

There are some relief measures, based on the holding period and the category of asset:

- Gains from the sale of securities acquired before September 28, 2012 through the exercise of stock options or share awards programs are taxed under the old regime.
- Gains resulting from cashing out a PEA during the first 5 years of the contract will be taxed at 19% after two years or at 22.5% if within two years.
- Taxable gains are reduced based on the holding period as follows: 50% after 2 years and 65% after 8 years.
- N.B. A revision to the law removes the abatement in the case of capital losses. Gross losses will be taken against gross gains, which means that they can be taken against any gains without diminishing the advantage.
Higher reductions to the capital gains tax are allowable to encourage the creation and development of small and mid-size enterprises (PME) as follows:

- 50% if shares held for at least one year but less than 4 years
- 65% if shares held for at least 4 years but less than 8 years
- 85% if shares held for at least 8 years

For shares of new PMEs, the tax rate also decreases, based on holding period and is more favorable.

Taxation of French real estate gains:

- For French residents and nonresidents the rate is: 19% + 15.5% CSG/CRDS/Prélèvements sociaux (but see special information below)
- Surtax of 6% on high gains: real estate gains greater than €50,000 are subject to an additional tax of 2% - 6%. This surtax (progressive based on the amount of the gain) is imposed in addition to the existing capital gains tax of 19% plus 15.5% social charges, after deduction of the exemptions for the holding period. The maximum tax including CSG/CRDS will be 40.5%.
- Although the French administration currently maintains the imposition of CSG/CRDS on real estate gains, French nonresidents residing in the EU, the European Economic Area (EEA) and Switzerland may again be able to file a claim to recover CSG/CRDS on real estate gains pending another decision by the European court (c.f. the de Ruyter decision of February 2015).
- Other nonresidents may be able to file protective claims to allow for the possibility of recovering CSG/CRDS collected on French real estate gains.

Real estate gains realized after September 1st 2014 are subject to a uniform tax treatment, whether from the sale of constructible lots or other real property.

Graduated exemption based on holding period:

- 6% for the 6th through 21st year
- 4% for the 22nd year

This results in a total exemption after a holding period of 22 years, compared to 30 years previously.

For the prélèvements sociaux, the exemption based on holding period follows a different schedule resulting in total exemption after 30 years.

The Radio-TV tax “redevance audiovisuelle” is 138€ for 2016.

The Energy Transition Credit (ex-sustainable development and energy conservation credit) for energy improvements undertaken as of September 1st 2014 provides for a new rate of 30%, regardless of the number of improvements and removes both the “bouquet de travaux” and revenue limitation requirement. This allows the credit for all taxpayers undertaking energy improvements but also other measures (electric car recharge stations, or installation of individually controlled hot water and heating systems in condominiums). The credit has been extended to December 31st, 2017.
€ The credit for Duflot - Pinel investment is extended to December 31st, 2017. The Pinel program replaced the Duflot (ex-Scellier) program with a more flexible regime for real estate investments made after September 1, 2014. As was the case for the Duflot program, in order to qualify, the residence must be new, located in certain specific zones, and the owner must agree to rent the property at 20% below market prices to tenants whose revenues cannot exceed certain limits. The following specific periods and corresponding reduction rate apply:

- 6 years: 12% (36,000€ maximum or 6,000€ per year)
- 9 years: 18% (54,000€ maximum or 6,000€ per year)
- 12 years: 21% (63,000€ maximum or 6,000€ per year for 9 years + 3,000€ per year for the additional 3 years)

Two ceilings apply: the total amount considered for reduction is limited to 300,000€ per year per tax “foyer”, and the amount per square meter is limited to 5,500€.

**As opposed to the Duflot program, the Pinel program does allow the owner to rent to parents or children without losing the tax advantage of the reduction.**

The tax reduction is subject to the “niches fiscales” cap mentioned above.

Different rates and ceilings apply to rental properties in the Territoires d’Outre-mer.

(The provision restricting the credit to 80% of the units initially applicable in case of buildings with at least 5 units no longer applies).

€ The "Loi Malraux ancien" deduction of expenses against in the context of a restoration permit submitted before January 1st 2009 for old buildings in certain zones will end December 31st 2017. For "Loi Malraux" restoration of rental properties in run-down historic neighborhoods is also extended for two years until December 31st 2017.

€ The “nouveau Malraux” for permits post-January 1st 2009 in certain sectors allows a tax credit for taxpayers committing to a 9-year rental period for certain expenses within a limit of 100,000€ representing 30% of expenses. In case of a net rental loss, this could be taken against global revenue.

€ The exemption of capital gains on sale of real estate destined for social housing is extended until December 31st 2018.

€ The “taxe sur les logements vacants” applies to uninhabited residences after one year of vacancy. This tax is 12.5% of the “valeur locative foncière brute” during the first year of taxation and 25% after.
The French qualifying Free Share ("actions gratuites") regime was reformed as part of the Macron bill of August 6th 2015. There are now 3 periods to consider with new changes being instituted for the third period:

- For sale of shares received before 28 September 28th 2012 and held for at least 4 years (2+2), the gain follows the previous taxation at either a flat rate of 30% or at progressive rates as salary.

- For shares received between September 28th, 2012 and August 7th, 2015, the gain is taxed as salary in the year of sale.

- For shares received from August 8th 2015:
  - For gains up to an amount of 300,000€ the gain will be established per the capital gain regime for sale of shares, with application of the abatement for holding period and taxation at progressive rates and 15.5% social contributions. The 10% employee contribution does not apply.
  - For gains over 300,000€, the gain will be taxed as salary at progressive rates without application of the abatement for holding period. Salary activity social contributions of 8% (including 5.1% deductible CSG) apply as well as the 10% employee contribution.

- 155B Impatriation Regime: for eligible employees or directors who start their French activity effective July 6 2016, the favorable regime is extended from 5 to 8 years. (Last year, the Macron bill had extended the applicability of the regime if an employee changes jobs within the same company or moves to an affiliate of the same industrial group).

- Capital gains: A flat deduction of 500,000€ is granted to executives selling their shares upon retirement, under certain conditions.

- Capital gains: as of 2014, for non-residents who sell their residential property in France within 5 years of leaving France, a one-time tax exemption of the capital gain of up to €150,000 can apply. This exemption has been expanded to include residences that are rental properties. The seller must have lived in France for at least two years continuously.

- Life insurance contracts: amounts paid upon death occurring after July 1, 2014 are taxable at 31.25% above 700,000€, after deducting the exemption amount of 152,500€. (The tax rate was previously 25% above 902,838€).
2017 French Income Tax Update

€ Regarding the so-called “année-blanche” on 2017 income and whatever the outcome on the implementation of the withholding reform as of 1/1/2018, it seems clear that all taxpayers will need to file 2017 French income tax declarations reporting their income and deductions in 2018. If the withholding reform is maintained, taxpayers will get a tax credit for all tax related to non-exceptional or recurring professional income items (credit d’impôt modernisation du recouvrement or CIMR) similar to the deemed foreign tax credit currently available on US income in applicable cases. Non-exceptional or recurring professional income essentially relates to salary and contractually stipulated amounts. The definition of what constitutes exceptional income should be evaluated on a case by case basis. We’ll have more information on this as the process advances.

€ Withholding “Prélèvement à la Source (PAS)”: It is announced that as of January 1st 2018, taxpayers will either have tax withheld (employees) or will make estimated payments (others). The withholding will be applied to the same taxable basis as previously i.e. after deduction of social charges and the standard or real expense deduction. For self-employed individuals or those receiving income from rents or alimony and support payments, the basis for the estimated payments made in year N will be net taxable income from year N-2 for the months of January through August, and from year N-1 for September through December.

€ The progressive tax brackets will again be revised to reflect an inflation rate of 0.1%.

€ The Energy Transition Credit (ex-sustainable development and energy conservation credit) for energy improvements applies until December 31st 2017.

€ The specific deduction of 75% allowed to organizations for persons in need is limited to the first 530€, allowing a maximum reduction of 398€. The deductible portion of charitable contributions in 2016 to organizations for general interest is 66% of the amount contributed. The maximum reduction may not exceed 20% of taxable income.

2017 ISF Update

€ The threshold for liability to wealth tax remains at 1,3M€ of net assets (net of debts related to assets subject to the wealth tax) and tax is payable on assets above 800,000€. Progressive rates apply as follows:

- 800,000 to 1,300,000 0.5%
- Over 1,300,000 up to 2,570,000 0.7%
- Over 2,570,000 to 5,000,000 1%
- Over 5,000,000 to 10,000,000 1.25%
- Over 10,000,000 1.5%
Taxpayers whose net assets subject to ISF are between 1.3M€ and 2.57M€ need to report the value of both gross and net assets on their French Income Tax Declaration, Form 2042C. As last year, no payment is due with the declaration; a separate Avis d’Imposition pour l’ISF 2017 will be issued in the fall of this year.

Wealth tax is capped if the total of wealth tax, income tax and prélèvements sociaux would exceed 75% of the taxpayer’s net worldwide income realized in the prior year. Any excess wealth tax over that amount is eliminated. The income to take into account when calculating this cap includes income from foreign sources and income from assurance vie accounts.

Taxpayers whose net assets subject to ISF are greater than 2.57M€ must file a separate ISF Declaration, Form n° 2725 and related annexes. This form must be filed by June 15th, 2017. Payment of the tax is due with the declaration.

- Potential reductions of the ISF liability:
  - 50% of the investment in a PME
  - 50% of the investment in an FIP, FCPI, or FCPR, capped at €18,000
  - 75% of the charitable contributions (“dons”) to certain organisms, capped at €50,000

If the taxpayer combines contributions with the other investments mentioned above, the combined cap for PME investments and charitable contributions is €45,000.

The ISF reduction may not be greater than the ISF due. If it is, the excess amount is neither reimbursable nor carried forward to a future year.

**2016 Gift and Inheritance Tax Update**

- The highest bracket of the progressive rate scale for gift and inheritance for lineal descendants is 45%. Higher tax rates may apply for transfers to more distant kin).

- The exemption amount for gift/inheritance tax for lineal descendants is €100,000 (lower exemption amounts apply to more distant relationships).

- The exemption re-sets every 15 years, as opposed to every 10 years previously.
**2016 Exit Tax**

€ The exit tax provisions, effective January 1st, 2014, modified those proposed in 2011.

€ Taxpayers transferring their fiscal domicile outside of France from January 1st, 2015 will be taxed on the unrealized capital gains of their stock (at the progressing rates conforming to the new rules regarding capital gains) if the following applies:

- They lived in France for 6 out the 10 years preceding their departure, AND
- They have stock in one company representing 50% of its net income; OR
- Their total stock in all companies exceeds €800,000. Taxpayers having transferred their fiscal domicile out of France during 2013 may, however, elect to be taxed at the 19% flat tax rate in effect prior to 2013.
- Values of OPCVMs are now included in the taxable base.
- The exit tax can be avoided if the stock is held for 15 years (up from 8 years under the previous law).

**2017 French Trust Declaration Update**

€ The 2016 Trust Declaration must be filed if any of the following are true:

- The settlor is a French resident;
- At least one beneficiary is a French resident;
- The Trust contains at least one French asset (i.e. real estate or share of a French company);
- The trustee or administrator is a French resident (this a new development pursuant to the decree of November 17th 2014, which also aims to enhance the Public Register of Trusts through identification obligations (SIREN) for trustees, settlors and beneficiaries who are deemed settlors and beneficiaries of the Trust).

€ The 2016 Trust Declaration which applies to all trusts in existence as of January 1, 2016 is due June 15, 2016.

€ The annual penalties for non-compliance are potentially severe: the higher of 12.5% of the value of the trust assets or €20,000.

**2017 French Sanctions on Undisclosed Non-French Accounts**

€ The French government has further defined sanctions in regard to undisclosed foreign assets (bank accounts, assurance vie, stock, trusts, real estate).

- The amended Finance law for 2016 of December 31st 2016 institutes a standard penalty of 80% on undisclosed Non-French bank accounts, life insurance and trusts and removes other proportional penalties (the latter were expressed as a percentage of the balances held in the different types of account).
There are now two types of sanction:

- All back taxes on taxable amounts in such accounts are now subject to a proportional 80% penalty (exclusive of other fixed penalties).
  - The 80% penalty cannot be less than fixed penalty per account: i.e. €1,500 to €20,000 (see below)
  - Only the fixed penalties of €1,500 to €20,000 (see below) apply if the income or balances of the non-disclosed accounts have otherwise been declared e.g. via income tax or wealth tax declarations.
  - Other proportional penalties no longer apply i.e. 5% for life insurance, 12.5% for Trusts.

- The 80% penalty can not be less than fixed penalty per account: i.e. €1,500 to €20,000 (see below)

A penalty of €1,500 per undisclosed account per year for the previous 5 years is applicable if the account is held in a treaty country (€10,000 if the account is held in a country without an agreement allowing the exchange of bank account information).

In the case of failure to disclose a foreign trust, the sanction is €20,000 per year.

If the taxpayer is subject to ISF when including the undisclosed accounts, original or amended ISF returns will be due, and back taxes assessed. For undisclosed assets, the look-back period is 6 years for declarations up to 2012 and 10 years starting in 2013. Hence, the longer the taxpayer delays the disclosure of the accounts, the higher the potential back taxes and penalties.

Income on the undisclosed accounts must be reported on amended income tax returns; back income taxes and social charge contributions (prélèvements sociaux) will be assessed. The ordinary statute of limitations of 3 years can be extended to up to 10 years with respect to the undisclosed accounts.

The tax administration can characterize deposits into the accounts or withdrawals from the accounts as deemed taxable income unless the taxpayer can prove the contrary.

A penalty of 40% for willful non-compliance will apply. This rate is calculated on the amount of back taxes due (not on the total net assets).

Interest at the rate of 0.4% per month late will apply. This equals an annual rate of 4.80%

The law to fight tax evasion published on December 7, 2013 reinforces applicable sanctions. The maximum penalty is raised to €2M and 7 years in prison in case of organized tax fraud involving several parties, undisclosed foreign bank accounts, false acts, structures, entities or tax domiciliation.

Taking steps to dissipulate foreign bank assets via foreign trusts or other entities or using hidden cash to purchase tangible assets would be considered acts of organized tax fraud.

Enhanced discovery and enforcement procedures were also included in this law.

Since June 21, 2013, a regularization program has been established which reduces the above sanctions if the taxpayer meets certain conditions.
Not everyone is impacted by this legislation. If you AREN’T affected, your 2016 tax return will be very similar to those you have filed in earlier years. If you ARE affected by the new legislation, your 2016 U.S. income tax return will include the form which adds complexity to your tax filing commensurate with the nature and quantity of your specified foreign financial assets.

One of the requirements that came into effect for January 1, 2015 is that now your non-US financial institution will be required to gather information on US citizens (i.e. Social Security Number and address) for purposes of generating any 1099 Forms and filing these with the IRS. Many individuals will have received a request from their bank to complete a W-9 form which assists the financial institution with gathering the necessary information. This form should be completed and returned back to your bank. If you are a US citizen and you receive a W8-Ben form you should not be completing this as it is only applicable for non-US citizens.

The Foreign Tax Compliance Act of 2009 (FATCA) took effect with the 2011 U.S. individual income tax return. FATCA requires that U.S. Citizens, U.S. resident aliens (Green Card Holders) and in some cases non-resident aliens, report the value of specified foreign assets on form 8938 that is integrated with the U.S tax return.

The FINcen Form 114 must continue to be filed, as necessary.

The form 8938 cannot be prepared independently of the 2016 income tax return because the figures reported on the form 8938 are reported in other places on the U.S. income tax return, and of course the figures must agree. For example, if you are required to file the form 8938 and you own a French savings account that generates interest income, the interest income needs to be included on the form 8938 and on the U.S. income tax return Schedule B. As a result, we are requesting that clients required to file the form 8938 provide us with the necessary documentation for use in preparing the form.

We ask that you determine whether you are subject to the FATCA reporting rules and if so, provide all necessary information. You will find two checklists on our website:

1) A checklist for taxpayers NOT subject to the FATCA/Form 8938 reporting rules

And

2) A checklist for taxpayers who ARE subject to the FATCA/Form 8938 reporting rules

Learning the rules will allow you to stay “within the law” and keep your professional tax preparation fees to a minimum.

Penalties for failing to comply with the FATCA provisions are severe. A $10,000 penalty may be imposed for failure to file a complete and correct form 8938 with the income tax return. An accuracy related penalty equal to 40% of the under reported income taxes on a transaction involving an undisclosed Specified Foreign Financial Asset (SFFA) may be assessed. Failure to comply with the disclosure requirements may also result in exposure to criminal penalties. The statute of limitations for the tax year will remain open until three years after an accurate form 8938 is submitted.
The form instructions are complicated. We have posted a link on our website to the form 8938 and its instructions.

Your requirement to file the form 8938 is determined according to: 1) The filing status of your 2016 U.S. income tax return; 2) Your Country of Residence; 3) The value of your SFFAs at 12/31/2016 and 4) the highest value of your SFFAs at any time during 2016.

Below, you’ll find a table to help you determine whether you must file the form. For example, if you file the 2016 U.S. income tax return using the “Head of Household” filing status and you live outside of the United States, you must file the form 8938 if the value of your SFFAs exceeded $300,000 at any time during 2016 or if the value of your SFFAs exceeded $200,000 on 12/31/2016.

<table>
<thead>
<tr>
<th>Filing Status</th>
<th>Country of Residence</th>
<th>Value on 12/31/2016</th>
<th>Value Any Time During 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single, Married Filing Separately, Head of Household</td>
<td>United States</td>
<td>$50,000</td>
<td>$75,000</td>
</tr>
<tr>
<td>Married Filing Jointly</td>
<td>United States</td>
<td>$100,000</td>
<td>$150,000</td>
</tr>
<tr>
<td>Single, Married Filing Separately, Head of Household</td>
<td>Foreign Country</td>
<td>$200,000</td>
<td>$300,000</td>
</tr>
<tr>
<td>Married Filing Jointly</td>
<td>Foreign Country</td>
<td>$400,000</td>
<td>$600,000</td>
</tr>
</tbody>
</table>

The form instructions would be more useful if they stated which assets are NOT considered to be SFFAs. As a starting point for establishing which of your assets are SFFAs you can exclude the following:

1) U.S. situs property including assets held by a U.S entity, U.S. partnership, U.S. trust, U.S retirement plan, etc.
2) Financial accounts maintained by U.S. payers or foreign branches and subsidiaries of U.S. financial institutions.
3) Foreign real estate (including principal residence, secondary residence, etc) owned individually OR foreign real estate that is owned within a foreign entity NOT held for investment (an example would be a principal residence owned by an SCI).
4) An interest in a foreign government’s social security or social insurance program.
5) Tangible personal property owned individually.
If you own property or a beneficial interest in an asset that falls outside the preceding categories you will need to read the (attached) form 8938 instructions in order to clarify whether the asset in question is a SFFA. The following assets are clearly SFFAs:

- Assurance vie – fonds en euros
- Assurance vie – unités de compte
- Compte épargne / compte sur livret
- Compte épargne logement (CEL)
- Compte titres
- Contrat de capitalisation
- FCPI (held outside financial account)
- Foreign trust
- Livret A
- Livret Développement Durable (LDD)
- Livret Jeune
- Loi Madelin retirement plan
- Other Foreign Pensions
- Ownership in foreign corporation (held outside financial account)
- Ownership in foreign partnership (held outside financial account)
- Vested article 39 French Pension
- Articles 83 French Pension
- Plan d’épargne actions (PEA)
- Plan d’épargne entreprise (PEE)
- Plan d’épargne logement (PEL)
- Plan d’épargne populaire (PEP)
- Plan d’épargne retraite (PER)
- SCPI (held outside financial account)
- Vested stock options and bonus shares

Complicated rules apply to joint ownership in SFFAs. This is particularly troublesome for SFFAs that are considered to be “community property” and which may be reported nominally (by the foreign financial institution) as being the non-resident alien spouse’s account. It is likely that a practical approach for disclosure will need to be adopted in cases where the form instructions are deficient.

If you believe you may be required to file the form 8938, we ask that you watch a short video (around 10 minutes) found on our website. The video provides a recap of the FATCA rules and offers tips on how to assemble information necessary to prepare the 2016 U.S. income tax return.

Most taxpayers will know by making a quick mental calculation whether or not they are required to file the form 8938. However, for taxpayers with SFFA valuations on the edge of the limits for filing, it will be necessary to make a definitive calculation. On our website, you’ll find a form 8938 worksheet that allows you to tally your SFFAs. We have also included an information checklist (tab II of the spreadsheet) that will provide an inventory of documents we will need to prepare the form 8938, as necessary. Our FATCA video explains how to use the spreadsheet.