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The French *Assemblée Nationale* has voted the first part of Budget 2013 resulting in a considerable tax increase for individuals as from January 1, 2013.

The bill will now be forwarded to the *Sénat* for further reading but its main features are expected to remain unchanged.

Income tax

A new tax rate of 45 per cent will be introduced and will apply above €150,000.

An "exceptional" 75 per cent rate to apply above €1,000,000 has been adopted with the notable exception of carried interests in order to protect the private equity sector. These will however be subject to a specific social security levy of 30 per cent.

Capital gains derived from the sale of company shares

Gains derived from the sale of company shares will no longer be subject to capital gains tax but will be included in the seller's annual income and subject to income tax at the normal rates ranging from 5.5 per cent to now 45 per cent (and potentially 75 per cent). A taper relief would be granted as follows:

- 20 per cent between 2 and 4 years
- 30 per cent between 4 and 6 years
- 40 per cent after 6 years

The new regime will come into force on January 1, 2013 meaning that gains achieved in 2012 will remain subject to the existing capital gains tax of 24 per cent.

A specific capital gains tax regime will remain in place for individual entrepreneurs (founders) selling the shares of their company at a profit. These will remain subject to a 19 per cent fixed rate provided:

i) The company can be regarded as having a genuine trading activity or as the holding structure of such company.

ii) The said company shares

- Have been continuously held directly or indirectly by the seller, his spouse, parents, children, grandchildren or siblings for at least five years

- Have represented 10 per cent of the voting or distribution rights for at least two consecutive years during the last 10 years
- Represent at least 2 per cent of the voting or distribution rights at the date of the sale.

iii) The seller has continuously run the company over a period of five years and held a management office in the said company allowing the shares to qualify for wealth tax (ISF) exemption.

Sellers will be allowed to postpone taxation provided at least 50 per cent of the gain is reinvested in one or several companies within 24 months. The amount invested will then be exempt at the end of a 5-year period of ownership.

Capital gains derived from the sale of property

In an attempt to encourage the property market an exceptional 20 per cent relief will apply to sales completed in 2013.

Capital gains derived from the sale of building plots

Gains derived from the sale of a building plot completed in 2013 will remain subject to the current capital gains tax rate (34.5 per cent + including social security contributions). However the existing taper relief resulting in a total exemption after 30 years will no longer apply.

As from January 1, 2013, the gain will be included in the seller's annual income and subject to income tax at the normal rates ranging from 5.5 per cent to now 45 per cent (and potentially 75 per cent).

ISF

The current threshold of €1.31m will be reduced to €1.3m.

For further information please contact:

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