

The tax on the market value of property owned in France

Called “3%-tax”

The so-called 3%-tax is certainly a particularity of the French tax system. The tax is payable on real properties and real property rights owned in France on January 1st of the tax year. The tax rate is 3%. Since its sole purpose is to identify the true owners of real estate, there are many possible exemptions.

Scope of the tax

The tax applies to all French and foreign corporate bodies, organizations, trusts and comparable institutions (legal entities), regardless of their legal form, whether incorporated or unincorporated, that own real properties or real property rights in France on 1 January of the tax year, either directly or through intermediaries. Individuals are not concerned.

Exemptions that do not require a filing form

The tax does not apply to :

- International organizations, sovereign States, their political and territorial subdivisions, and legal entities in which they have a majority stake
- Legal entities that are not deemed companies investing predominantly in real property, whose property assets located in France account for less than 50% of French assets they hold, either directly or indirectly
- Legal entities whose shares, units and other rights are the subject of significant and regular transactions on a regulated market, as well as corporate bodies in which these entities hold the entire share capital, either directly or indirectly
- Legal entities that have their registered office in France or another European Member State
- Legal entities that have their registered office in a country or territory bound to France by an administrative assistance agreement with a view to combating tax evasion and avoidance
- Legal entities that have their registered office in a country bound to France by a treaty under the terms of which they enjoy the same treatment as legal entities having their registered office in France, and that:
 - o Directly or indirectly hold a share in real properties situated in France or hold real property rights relating to such properties, whose market value is less than €100,000 or 5% of the market value of the aforementioned properties or rights
 - o Are established for the purpose of managing retirement schemes, are public interest organizations, or organizations managed without personal gain, and whose business activity or financing justifies ownership of real properties or real property rights
 - o Take the form of a real-estate investment trust or a limited liability real estate company with variable capital and legal entities that must comply with equivalent regulations

Exemptions that require filing form

If no “automatic exemption” is applicable, legal entities liable for VAT and whose registered office is located in France, in another European Union Member State or in a country or territory bound to France by an administrative assistance agreement with a view to combating tax evasion and avoidance or in a country bound to France by a treaty under the terms of which they enjoy the same treatment as legal entities having their registered office in France may be exempted by filing form.

Filing procedures

The legal entity must :

- Either file, by May 15 of each year, a form no. 2746 declaring real properties and real property rights held directly and indirectly and their value on January 1, as well as the list of shareholders, partners or other members that hold less than 1% of shares, units or other rights ;
- Or take the commitment either 2 months following the first acquisition to disclose, at the first request of the tax authority, the real properties and real property rights held directly and indirectly and their value on January 1, as well as the list of shareholders, partners or other members that hold less than 1% of shares, units or other rights.

Since January 1, 2021, the form no 2746 and the deed of commitment must be filed in electronic form on the company's "impôts.gouv.fr" portal. The access to this portal is done by means of an administrative identification number of the company, called "SIRET number". If the company does not have such a number, a request for attribution must be submitted to the tax office responsible for the 3% tax. Once the SIRET number has been issued, it is necessary to register on the "impôts.gouv.fr" portal and then to fill in the declaration oneself or through a representative, such as a tax lawyer.

Details

In case of omission of a declaration, a regularization (filing of a form after the due date) is possible, but only if it is the first time that the legal entity makes a late filing.

The tax liability (and thus the obligation to file exemption returns) extends to all legal entities and institutions in an ownership chain. All interposed companies in the possible chain of ownership are jointly and severally liable. It is therefore very important to ensure that all partners, shareholders or unit holders themselves comply with their reporting obligations.

In principle, the limitation period for the 3% tax is 6 years, but a shortened period of 3 years applies if the tax has become due by the registration of a deed or the filing of a declaration without the tax authorities having to carry out additional investigations.