

Tax regime for impatriates: treatment of the severance payment made to a professional football player

CE, 9^e-10^e, 4 October 2023, n° 466714

17 October 2023

In their decision of 4 October 2023, France's *Conseil d'Etat* validated the application of the impatriate regime for the determination of income tax due on severance payments made to professional footballers.

The impatriate regime provided for in Article 155B of the French General Tax Code (CGI)

Article 155B of the French General Tax Code provides for a special tax regime for impatriate employees, including professional football players who play in the French League.

To benefit from this preferential tax regime, employees must not have been resident in France for tax purposes in the five years prior to their arrival in France and must be resident for tax purposes in France from the time that their professional duties start.

Under certain conditions, impatriate employees may benefit from a tax exemption on an impatriation bonus paid to them, i.e. the additional compensation they receive for working in France. Employees recruited directly from abroad by a company established in France may opt to have their impatriation bonus assessed at a flat-rate of taxation.

If such an option is chosen, the impatriation bonus is considered to be equal to 30% of their net remuneration. This net remuneration amount includes all bonuses and allowances provided for in the employment contract and is taxed in

accordance with the rules applicable to salaries and wages under ordinary law.

Case study

In a previous case, a professional footballer who had signed a contract with a French club had his personal tax situation assessed for the tax years 2012 to 2014.

In regard to 2013, the French tax authorities challenged the application of the 30% exemption provided for under Article 155B of the General Tax Code on the severance payment made by his club.

The French Administrative Court of Appeal upheld the decision on the grounds that the reason of a severance payment was intended to compensate for a loss of employment and did not correspond to compensation paid in return for work or a service provided by the employee.

Decision

The *Conseil d'Etat* however, recalls that Article 80 *duodecies* of the French General Tax Code provides that any compensation paid on termination of an employment contract constitutes taxable income, with certain exceptions (in particular, the fraction of severance payments not exceeding the thresholds determined by law or collective or interprofessional agreements).

In addition, the judges of the *Conseil d'Etat* ruled that for the year under review, employees called upon from abroad to take up employment with a company established in France for a defined and limited period can be exempt from income tax on 30% of their total remuneration if this has been opted for.

Therefore, when a player opts for the flat-rate exemption calculation from which his remuneration may benefit, the 30% exemption applies to all of his taxable income, as defined particularly in Article 80 duodecies of the French General Tax Code, and including severance pay when a French employment contract is terminated.

This decision highlights the special nature of compensation received by professional sportsmen and women and the importance of determining the exact nature of such income.

Grant Thornton *Société d'Avocats* provides advice and support to sportspeople and clubs on the tax and legal aspects specific to their activity.

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