FEATURE:
INTERNATIONAL PRACTICE

By Michel Dayanithi & Margaux Niclout

French Tax Residency: The 183-Days Myth

Misjudging this rule now has serious consequences

The belief that spending fewer than 183 days in France during a calendar year is all it takes to avoid French residency status is one of the most stubborn misconceptions held by non-professionals. The logic seems straightforward: Pack your bags, spend half of the year elsewhere and *voilà*, no more French tax obligations. It sounds simple, but it's dangerously misleading.

French tax law doesn't rely solely on the number of days spent in the country. Residency is assessed based on a series of criteria, of which the length of stay is just one. An individual can easily spend fewer than 183 days in France and still be regarded as a French tax resident based on their personal or professional ties with France.

Misjudging residency now has far more serious consequences, as the 2025 French Finance Bill extends the statute of limitations in cases of "false domiciliation." What was once a 3-year audit window can now stretch back a full decade.

Properly understanding tax residency rules has become even more essential, especially for high-net-worth and globally mobile individuals. Let's take a closer look at how the so-called "183-days rule" works and why properly assessing tax residency requires much deeper attention following the adoption of the 2025 French Finance Bill.

The 183-Days Rule Myth

French tax law doesn't rely on a single, clear-cut test for determining tax residency.

Michel Dayanithi is a partner, and **Margaux Niclout** is an associate, both at Syntaxe

Unlike some jurisdictions that rely on a quantitative test, French tax law evaluates an individual's overall situation based on several independent criteria.

Article 4 B of the French Tax Code considers an individual a French tax resident if they meet *any one* of the following four main criteria:[1]

- Their home (foyer) is in France. This refers to the taxpayer's habitual and permanent place of residence. If their spouse and children live in France, this alone can be enough to meet the criterion, even if the taxpayer personally spends most of their time abroad.
- France is their principal place of stay (the 183-days rule). In the absence of a home, this criterion looks at where the taxpayer spends the majority of their time over the course of the year.
- Their main professional activity is in France. Engaging in a professional activity in France, whether as an employee or self-employed individual, can be enough to meet this criterion, even if the individual resides elsewhere.
- The center of their economic interests is in France. This applies when the taxpayer derives the bulk of their income from France, manages businesses from French territory or holds their main investments in France.

Because only one of these criteria needs to be met to establish tax residency, relying on the 183-days rule alone is a flawed oversimplification. Someone can be considered as a French tax resident, not only based on the duration of their stay in France but also because of their home, work or financial connections.

How the Rule Works

The 183-days rule misinterprets the principal place

of stay criterion. Contrary to popular belief, the rule isn't about crossing an absolute threshold; it's about *relative presence*. What matters is where someone spends the most time during the year compared to any other country.

Therefore, even if someone stays in France for fewer than 183 days, they could still be considered as residing in France if they didn't spend more days in another given country.

For example, assume a taxpayer with no clearly established home spent the following number of days in different countries over a given year:

- 100 days in the United States;
- 100 days in Spain;
- 165 days in France.

Despite spending less than 183 days in France, this individual still spent more time there than in any other country, which could be enough to meet the principal-place-of-stay criterion.

This subtlety often catches expatriates off guard, as many wrongly assume that staying under the 183-days threshold provides an automatic safeguard against French tax residency.

Case Law

A ruling from the Lyon Administrative Court of Appeal[2] illustrates how tax residency in France extends beyond the 183-days rule. This case involved a couple who argued they weren't French tax residents, claiming they split their time among Anguilla, the United States and France. In 2002, they spent 177 days in France, just below the notorious 183-days threshold, believing this would exempt them from being regarded as French tax residents.

However, the couple failed to prove they had spent more time in any other single country than in France. While they were absent from France for 188 days, they couldn't demonstrate that they had spent at least 178 days in another specific country. Based on these findings, the court ruled that France was their principal place of stay, making them French tax residents. The court also took note of their ties to France (ownership of real estate assets, use of bank accounts), which further supported their French residency status.

This case illustrates the risks of focusing only on time spent in France while ignoring the other criteria that matter just as much. It also highlights the importance of doing more than simply counting days: Documented evidence is required. To safeguard against disputes, individuals relying on the principal-place-of-stay criterion should meticulously track and retain records of their movements. Without this documentation, they risk having their residency status determined solely based on the elements provided by the tax authorities, which may not always be in their favor.

> An individual can be considered a French tax resident for part of the calendar year and a non-resident for the rest.

Mid-Year Change

Another common misconception about the 183-days rule is that tax residency is assessed strictly on a calendar-year basis. One might assume they can avoid French tax residency by timing their move, for example, by relocating to France in July instead of June, to ensure they spend only five months in France rather than six, delaying their tax exposure until the following year. While this strategy might seem like a clever workaround, French tax law provides that changes in residency status can occur within a given calendar year.[3] This means that an individual can be considered a French tax resident for part of the calendar year and a non-resident for the rest.

The trick is pinpointing the exact date when tax residency status changes. This is when tangible evidence (such as flight tickets, rental agreements, utility bills and any other documents that substantiate presence) becomes critical to prove the exact date the change occurred. In the absence of clear records, tax authorities may impose their own assessment, often to the taxpayer's disadvantage.

This isn't just a technicality: Precisely determining

a change in residency can have major tax consequences. Consider an individual who sells assets just days before relocating to France, assuming they're still a nonresident at the time of the transaction. However, French tax authorities could take a different view. They might argue that residency began weeks earlier, perhaps on the date a lease was signed or when other key ties to France were established. As a result, the capital gains from the sale, which the taxpayer believed was outside the scope of French taxation, could be subject to French tax instead, potentially leading to a higher tax liability than expected.

Dual Tax Residency

What happens if an individual is viewed as a tax resident in two countries under each country's respective laws? This is quite common for individuals with interests across borders. Fortunately, double tax treaties help resolve such conflicts.

France has double tax treaties with many countries, including the United States, which establish tie-breaker rules designed to determine which country has the ultimate right to tax an individual as a resident.

These treaties apply a hierarchical test based on a series of factors. Each factor is considered one at a time in a specific order. If a factor doesn't provide a decisive answer, the next one is considered until one country is definitively established as the taxpayer's residence.

For instance, the France-United States double tax treaty relies on the following factors (sorted by order of priority):

- Permanent home. This factor refers to the country in which the individual maintains a habitual dwelling.
- Center of vital interests. This factor refers to the country where personal and economic ties are strongest.
- Habitual place of abode.
- Nationality. A final resort if other factors fail to settle the issue.

In cases in which even citizenship doesn't settle the matter (such as dual nationals), the treaty provides that authorities from both countries should reach a mutual agreement through diplomatic channels.

This complexity makes it all the more crucial to get residency assessments right. And now, with the 2025 French Finance Bill introducing a 10-year statute of limitations for cases in which residency is "falsely" reported, the stakes have been raised.

Statute of Limitations

As a general rule, French tax law imposes a standard 3-year statute of limitations (SOL) on income tax reassessments. In practice, this means that tax authorities typically have until Dec. 31 of the third year following the tax year in question to challenge a taxpayer's declared residency.

But there are exceptions. In certain cases, such as failing to report foreign bank accounts, the SOL extends to 10 years, but only for income linked to those unreported accounts.

Under Article 61 of the 2025 French Finance Bill, a taxpayer may now face a 10-year SOL if they're found to have used a "false tax domiciliation abroad" (fausse domiciliation fiscale à l'étranger).

This new provision, incorporated into Article L. 169 of the French Tax Procedure Code, was introduced through a senator's amendment during the legislative process, seemingly driven by concerns other than legal precision.

Its ambiguous use of the term "false" leaves significant room for interpretation and uncertainty. In French, as in English, the word "false" ("faux") can mean either simply incorrect or deliberately deceptive.

As such, the "false domiciliation" exception could be interpreted narrowly or broadly:

- **Narrowly.** The exception would apply only to cases of deliberate fraud, when a taxpayer knowingly and intentionally misrepresented their residency to evade French taxation.
- **Broadly.** The exception would apply whenever a taxpayer's foreign residency is deemed incorrect by tax authorities, regardless of intent.

While the narrow interpretation seems more aligned with the lawmaker's apparent goal on combating tax fraud, the actual wording doesn't exclude the broader interpretation.

This linguistic debate even prompted another senator—after the 2025 French Finance Bill had been adopted— to demand the government clarify the measure's intended scope,[4] leading to the ironic situation of the legislative branch now seeking an explanation from the executive branch for a provision it itself designed, drafted, introduced and passed. If the very authors of the law can't grasp its meaning, what hope is there for the taxpayer who will ultimately bear the consequences?

The issue is that, even if this provision feels like a sanction, it doesn't introduce a new standalone penalty; it simply extends the SOL. As a result, some courts may lean toward a broader interpretation, applying the 10-year period whenever a taxpayer's residency status is deemed incorrect, even in cases of genuine misjudgment rather than deliberate fraud.

Residency analysis *isn't* absolute. A broader interpretation would be particularly concerning, exposing even well-intentioned taxpayers to an extended 10-year audit period. Determining one's tax residence isn't always clear-cut, as it relies on subjective judgment calls. The process typically involves a detailed analysis of personal, professional and financial ties, leaving room for interpretation and, sometimes, disputes.

A residency dispute doesn't necessarily indicate misconduct. More often than not, it's just the consequence of the complexities of cross-border tax rules. Yet, under this new provision, taxpayers risk being regarded as if they had knowingly engaged in tax evasion simply because their residency assessment differed from that of the tax authorities.

This is more concerning given that many foreign individuals aren't aware that France's tax residency rules go beyond the 183-days paradigm. The assumption that "fewer than 183 days means no residency" is widespread yet completely incorrect under French law.

Financial consequences of a 10-year audit window. Extending the SOL dramatically increases the financial risks associated with a tax residency dispute. Under the general 3-year period, a taxpayer facing a reassessment might owe back taxes, interest and penalties for four tax years at most (the current year plus the three previous ones). Now, a tax residency dispute could expose a taxpayer to a full decade's worth of back taxes, penalties and interest.

Tax reassessments of this nature aren't just about financial consequences. They also pose a significant evidentiary challenge. Gathering reliable documentation dating back up to 10 years can be extremely difficult. Many of these documents may no longer be easily accessible, especially if they were never systematically archived.

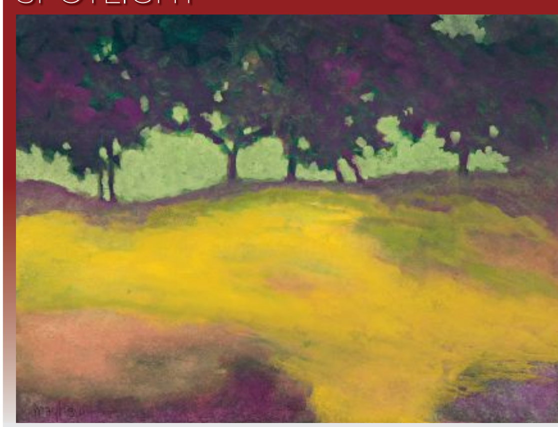
Documented Evidence

With the 183-days rule proving to be a dangerous myth, and the French tax authorities now potentially empowered with a decade-long window to challenge residency declarations, taxpayers must abandon oversimplified assumptions and ensure they have documented evidence to support their tax residency status.

Endnotes

1. Additional criteria exist, but only the main ones are presented here.
2. Lyon Administrative Court of Appeal, No. 15LY04070 (March 30, 2017).
3. Article 167 of the French Tax Code.
4. French Senate, Question No. 03693, by Senator Jean-Luc Ruelle (March 13, 2025).

SPOTLIGHT



Over the Hill

Ridge by Richard Mayhew sold for $55,000 at Swann Auction Galleries Contemporary Art auction on Nov. 26, 2024 in New York City. Mayhew draws on his experiences as an African American/Native American, along with his passion for Jazz and the performing arts as inspiration for his vibrant, abstract paintings.