



France Exchange of Tax Information with, Jersey, Guernsey, Man, Cayman and BVI.

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Please note that tax law is a complex subject and you should not rely on this article without professional advice on the facts of your case.

France signed tax exchange of information treaties with the above jurisdictions during 2009 which had to be ratified by the respective countries before they could come into force. There has been a delay in bringing them into force whilst the French government considered them and sought various clarifications. These matters appear to have been resolved and the draft French laws to bring them into effect were published by the French government on 23rd February 2010 and are with the French parliament. The draft laws have a preamble setting out how France understands the agreements are to be applied.

The effect of these treaties goes well beyond exchange of tax information and for the first time will open up the possibility for investors in these jurisdictions to invest in France without (inter alia) the punitive 3% tax per annum on the gross value of French property owned by them.

It appears the treaties could come into force very shortly as there is nothing in the draft French law stating they have a commencement date. It appears the other jurisdictions have carried out their internal ratification procedures.

The Jersey treaty covers direct and indirect taxes including VAT. It also covers French Wealth Tax, Inheritance Tax, Stamp Duty and withholding tax. The exchange of information covers requests for information which may lead to both a civil fine or a criminal conviction. There is a requirement that the tax authorities have to act to obtain documents and cannot say they are not holding such documents. This appears to allow the French authorities to require the Jersey authorities to obtain production of documentation from say Jersey trustees. There is reference to internal confidentiality requirements though France sees these as secondary to the general requirement in the treaty to disclose information.

With the agreement of the Jersey tax authorities and “the persons concerned” French tax investigators are able to visit Jersey to conduct interviews. There is also an article covering pensions.

The other commentaries are similar. There are a few interesting points of comparison on the treaties.

- Only the Jersey treaty has a specific clause on pensions which was inserted at Jersey’s request.

- The BVI and Cayman treaties have a foot note stating that a request for information covers all persons including people who are not BVI/Cayman resident or BVI/Cayman nationals.
- In the BVI one France can ask for witness statements and certified copies of documents.

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