FRENCH TAX INVESTIGATIONS TARGET H.N.W. INDIVIDUALS

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INTRODUCTION

Tax evasion and avoidance have been significant concerns for governments worldwide, and France is no exception. In recent years, the French government has ramped up efforts to investigate high net worth individuals ("H.N.W.I.'s") suspected of tax evasion, particularly as global scrutiny increases over the wealthy's financial practices. France, with its robust tax system and a tradition of enforcing tax compliance, utilizes a range of investigative techniques to target H.N.W.I.'s. This article delves into how French tax investigations are carried out, focusing on methods, legal framework, and high-profile cases involving the wealthy.

THE FRENCH TAX AUTHORITY: A POWERFUL ENTITY

The French tax system is managed by the *Direction Générale des Finances Publiques* ("D.G.F.I.P.'). It is one of the most powerful government bodies in France, responsible for managing all aspects of taxation. In its efforts to combat tax evasion, the D.G.F.I.P. works closely with other national and international entities such as the French National Financial Prosecutor's Office ("P.N.F."), the police, and financial intelligence agencies.

The French government has been particularly proactive in targeting H.N.W.I.'s and ultra-high-net-worth individuals ("U.H.N.W.I.'s") due to expectations of large tax revenue that can potentially be collected from such individuals, who are believed to use complex financial structures, offshore accounts, and other sophisticated tax avoidance schemes.

INVESTIGATIVE METHODS: A COMPREHENSIVE APPROACH

To investigate high-net-worth individuals, French authorities employ several sophisticated techniques and tools. Some of the key methods used in these investigations are described below.

Lifestyle Audits

One of the most common methods used to target H.N.W.I.'s is the lifestyle audit. French authorities scrutinize the apparent discrepancies between an individual's reported income and visible wealth. These audits can involve analyzing the target individual's spending patterns, assets, luxury purchases, and travel habits. Red flags

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pop up if someone with modest declared income is seen purchasing expensive real estate, or high priced automobiles, or traveling frequently to exclusive destinations.

Tax Evasion and Fraud Investigations

French authorities have specialized units dedicated to investigating complex cases of tax fraud and evasion. These units track down individuals who utilize offshore trusts, shell companies, or other financial tools to hide their wealth from tax authorities. In some cases, this involves cross-border collaboration with international organizations such as the Organisation for Economic Co-operation and Development ("O.E.C.D.") or tax jurisdictions like Luxembourg and the Cayman Islands that serve as financial hubs for offshore accounts.

Data Leaks and Whistleblower Revelations

High profile cases have been exposed through data leaks from whistleblowers or investigative journalists. A notable example is the Panama Papers leak of 2016, which revealed how many of the world's richest individuals and corporations use offshore companies and trusts to evade taxes. Following such leaks, the French tax authorities initiated investigations into several French nationals who were named. Leaked data provides a goldmine of information that tax authorities can use to probe further into potential tax evasions.

Cross-Border Cooperation and International Agreements

Tax authorities in France have benefited from increased international cooperation in recent years, thanks to agreements like the Common Reporting Standard ("C.R.S.") and the Automatic Exchange of Information ("A.E.o.I."). These agreements allow tax authorities to receive details about foreign bank accounts, assets, and income of French citizens and residents. These systems help investigators track down financial activities in offshore jurisdictions, providing the necessary data to conduct thorough audits.

FRENCH LEGAL / REGULATORY FRAMEWORK

France has a well-defined legal framework for investigating and prosecuting tax evasion. Under French law, tax evasion can lead to hefty fines, asset seizures, and in extreme cases, prison sentences. Some key legal provisions include:

The French Tax Code

The French Tax Code is designed to ensure that taxpayers comply with their obligations, and it grants authorities broad powers to investigate and enforce compliance. Provisions under the Code allow the D.G.F.I.P. to inspect private and corporate financial documents, audit businesses, and issue penalties for fraudulent activities.

Criminal Liability for Tax Fraud

Tax fraud in France is considered a criminal offense. Article 1741 of the French Tax Code allows for the imposition of financial and criminal penalties for individuals who are found to have deliberately evaded taxes. Depending on the scale of the fraud, penalties can range from fines to imprisonment. The penalties for major cases of tax evasion can also include asset forfeiture and the dismantling of illicit financial structures.

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FRENCH ANTI-MONEY LAUNDERING LAWS

Anti-money laundering ("A.M.L.") legislation in France plays a crucial role in combating tax evasion. The Law Sapin II, passed in 2016, includes provisions for preventing corruption and increasing the transparency of financial dealings. This law obliges financial institutions to report suspicious activities, which helps identify illegal financial flows linked to tax evasion schemes.

HIGH-PROFILE CASES: EXPOSING THE WEALTHY

France has witnessed several high-profile cases in which prominent individuals were investigated or prosecuted for tax evasion. These cases often attract media attention and serve as a warning to others in similar situations.

The Case of Gérard Depardieu

One of the most well-known cases in France was that of the actor Gérard Depardieu, who famously became a tax exile to Russia after disputes over France's high tax rates. Although Depardieu was not directly accused of tax evasion, his move drew attention to the lengths some wealthy individuals would go to avoid high taxes in France. He became a Belgium tax resident in February 2024, and is under investigation in France for tax fraud because of his residence in Belgium.

The Cahuzac Affair

One of the most dramatic cases involved Jérôme Cahuzac, the former French Minister for the Budget, who was found to have hidden significant sums of money in offshore accounts. Cahuzac initially denied the accusations but was later convicted of tax fraud and money laundering. He was finally sentenced to three years' imprisonment and five years' ineligibility.

His case highlighted the significant risks involved in evading taxes at the highest levels of government.

The Bettencourt Affair

The L'Oréal heiress Liliane Bettencourt was involved in 2011 in a major tax evasion case when it was revealed that her wealth, estimated at several billion euros, had been hidden in various offshore accounts. While the Bettencourt family was not directly prosecuted for evasion, the case underscored the intensity of scrutiny that France places on wealthy individuals suspected of financial mismanagement or fraudulent behavior.

The Role of Transparency in Combatting Tax Evasion

As the global community becomes more focused on ensuring that the wealthy pay their fair share of taxes, French authorities are continuously strengthening transparency measures. The Public Country-by-Country Reporting ("C-b-C Reports") requirement, which mandates that multinational corporations must report their profits and tax contributions in each country they operate, is a step towards greater accountability.

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In addition, the French government has also supported international initiatives to eliminate tax havens and increase cooperation between tax authorities globally. The European Union's anti-tax avoidance directives ("A.T.A.D.") and the O.E.C.D.'s Base Erosion and Profit Shifting ("B.E.P.S.") framework have further strengthened France's resolve in tackling tax evasion by H.N.W.I.'s.

NEW TAXATION PROVISIONS AND 2025 FINANCE BILL

The 20% Minimum Contribution Requirement

Under the 2025 Finance Bill, a new minimum contribution requirement will be applied to individuals whose income exceeds a certain threshold. This contribution is designed to ensure that high-income earners pay at least 20% in taxes on their total income, after deductions and allowances.

If an individual's total tax rate (including income taxes and social contributions) falls below 20%, a surtax must be paid to increase the total tax liability to the 20% minimum. This measure ensures that even those with complex financial arrangements or significant deductions contribute fairly to the tax system.

Taxation of Management Package Gains

The 2025 Finance Bill also introduces new provisions aimed at more aggressively taxing management package gains.

The management package refers to the equity-based compensation given to executives and high-level employees, often in the form of stock options, performance shares, or bonuses tied to the long-term performance of a company. For many years, management packages have been a way for high-income earners to benefit from lower tax rates compared to regular salary income by classifying the gains as capital gains rather than income.

In recent years, there has been growing concern over the tax inequities associated with these compensation structures. In response, the 2025 Finance Bill introduces a new tax regime specifically designed to increase the tax burden on management packages. The goal is to align the taxation of these packages with ordinary income and curb potential tax avoidance by wealthier individuals.

Under the previous tax regime, gains from management packages were often classified as capital gains if certain conditions were met. Such gains were taxed at favorable rates when compared to regular income. For example, the capital gains tax rate was around 30%, which is significantly lower than the rates for income tax, which top out at 45%.

The 2025 Finance Bill introduces a new tax structure under which management package gains will be treated as ordinary income and will be taxed progressively. Consequently, these gains will be taxed at the same rates as regular salaries. In addition, a 14% social security contribution applied to these packages, resulting in a combined tax rate of 59%. The 59% tax rate for management package gains is among the highest in Europe, marking a stark contrast to the previous regime where management packages were often taxed more lightly. The goal of this policy is twofold:

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- **Equalize Taxation.** Ensure that executives and top earners are taxed at the same rates as ordinary employees, thus closing the gap between their income and the tax burden borne by regular workers
- **Discourage Tax Avoidance.** Discourage the use of management packages as a means to avoid higher income tax rates. Previously, many top executives took advantage of these packages to reduce their effective tax rate, sometimes by classifying compensation as capital gains rather than ordinary income

Some exceptions to the 59% tax rate may apply.

- Stock options and performance shares may still benefit from lower rates depending on the length of the holding period and the type of package. Executives may still benefit from a lower tax rate if the package was granted several years prior to being exercised or realized.
- The tax rate on capital gains from company shares may remain lower if the shares are sold after a holding period of more than two years. This aspect is designed to encourage long-term investment in the company they manage. However, such capital gain tax treatment will apply only under certain conditions.

This new management package tax regime reflects increasing calls for wealthy executives and entrepreneurs to contribute more to the tax system, especially U.H.N.W.I.'s who derive much of their income from performance-based equity compensation.

"Consequently, for 2025, the wealth tax remains applicable only to real estate."

Proposal to Expand the Scope of Assets Subject to Wealth Tax

A proposal was put forth for the transformation of the current wealth tax into an unproductive wealth tax. Under the proposal, other assets would be added to the tax base, such as (i) saving accounts (ii) literary, artistic and industrial property rights of which the taxpayer is not the author or inventor, and (iii) cryptocurrencies. To counterbalance the new base, the tax threshold at which a taxpayer becomes liable would have been raised from the current €1.3 million to €2.57 million.

The proposal was abandoned by the Parliament during the final vote of the 2025 Finance Bill). Consequently, for 2025, the wealth tax remains applicable only to real estate.

CONCLUSION

Tax investigations targeting H.N.W.I. individuals in France are becoming increasingly sophisticated as the country employs a combination of data analysis, international cooperation, and lifestyle audits to combat tax evasion. Additionally, the 2025 Finance Bill and recent actions by the French Senate are reshaping the taxation of the wealthy. As transparency increases and international tax regulations continue to evolve, France is positioning itself as a key player in global efforts to enforce tax compliance among its wealthiest citizens, fostering a fairer and more balanced tax system according to proponents of higher taxes.

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