

Managing Personal Wealth Internationally

When your personal, professional, and family life has been built around several countries, managing life events and personal wealth becomes legally more complex. Multiple laws may potentially apply: the law of your main residence, the law of your last domicile before death, the law of the location of your assets, or the law of your nationality... and each may have radically different consequences for your situation.

However, from a tax perspective, Countries have agreed on international rules that apply, and for example, nationality plays little role in determining tax obligations.

I got married abroad, lived there, still live there, and own property there... what happens if I get divorced?

In the absence of a marriage contract or any option, the applicable law is generally determined by the couple's first habitual residence, which may no longer be your current place of residence. You may assume that, because you live in a country where community property is the default regime, all jointly acquired assets will be split in case of separation.

However, a completely different regime may apply if the first country you lived in applies a separation of property regime, where each spouse retains ownership of assets acquired in their own name, for example.

The law applicable to your matrimonial regime can significantly impact your rights—possibly in ways you haven't anticipated and that may not align with your intended asset organization. It is therefore essential to determine the applicable law for your matrimonial regime or to choose it in advance if permitted and beneficial.

Even if a country's law governs the civil aspects of divorce, tax obligations will depend on the spouses' tax residence, not their civil residence. In other words, tax obligations are determined by the tax residence, not by other legal systems.

My parent passed away while owning property abroad... I'm planning to transfer my assets while living abroad... How is the inheritance handled?

In principle, the law applicable to the estate is the one of the deceased's last domicile. Nationality is irrelevant.

Thus, a foreign law may determine your rights in the estate of your French parent, or affect the inheritance you had planned based on familiar legal concepts.

This can have major consequences, as some foreign laws allow a person to completely disinherit their children—something prohibited under French law due to the concept of *forced heirship* or in French « *réserve héréditaire* ».

Whether you are planning your estate or are an heir, it is crucial to determine the applicable inheritance law, to change it if possible, or to anticipate its effects so they align with your wishes. From a French tax perspective, specific rules are set out in Article 750 ter of the French Tax Code. In general, if the deceased was domiciled in France, all movable and immovable property is taxable in France, regardless of its nature or location. This includes tangible movable property and real estate located abroad, as well as foreign receivables, securities, or trust assets.

If the deceased was domiciled outside France, the following distinction applies:

- If the heir is domiciled in France on the date of transfer and has been for at least 6 of the past 10 years: all movable and immovable property received, whether located in France or abroad, is taxable in France;
- If the heir is domiciled outside France: only French assets received (tangible movable property and real estate located in France, French receivables and securities, French trust assets) are taxable in France.

If a tax treaty on inheritance exists between France and the other country, it will help manage double taxation.

How can I have informed decisions in an international personal situation?

Any situation involving a foreign element clearly requires expertise in the relevant legal field (matrimonial regimes, taxation, divorce, inheritance, joint ownership, etc.). But that's not enough. Specific knowledge of international and foreign law is also essential. For example, the *trust* has no legal equivalent in France, but specific tax rules apply to it.

Similarly, *usufruct* (in French "*usufruit*") and *bare ownership* (in French "*pleine propriété*") are not recognized in some countries, adding another layer of complexity.

By fully understanding the legal implications of your personal situation, you can make informed decisions to achieve your desired asset structure.

ORATIO AVOCATS, with the support of the **BAKER TILLY International** network, can assist you with these matters and provide personalized advice tailored to your needs and situation.