

MEMO# 30462

December 7, 2016

French Supreme Administrative Court Confirms That Tax Claim Filing Deadlines Not Changed by November Decree

[30462] December 7, 2016 TO: ICI Members

ICI Global Members SUBJECTS: International/Global

Tax RE: French Supreme Administrative Court Confirms that Tax Claim Filing Deadlines Not Changed by November Decree

A decree issued by the French Government on 2 November 2016 (No. 2016-1480) amending the Code of Administrative Justice created considerable confusion regarding its application to tax claims. This confusion was of particular concern to funds that have been pursuing tax refunds based upon the free movement of capital article (Article 63) of the Treaty on the Functioning of the European Union. ICI Global (through our French counsel), among others, urged the French Tax Agency (FTA) and others to clarify that the decree does not apply to tax cases.

The decree, had it applied, would have deemed claims pending before the FTA for more than six months as rejected; this deemed rejection would have started a two-month period during which a taxpayer seeking to preserve its claim would be required to file suit in the Administrative Tribunal. Because the decree would have applied to claims filed previously with the FTA, any claim filed prior to 1 May 2016 could have been subject to a 31 December 2016 court filing deadline.

Today, the French Supreme Administrative Court (Le Conseil d'État) issued a decision^[1] addressing the applicable filing requirements under the Code of Administrative Justice. The accompanying press release states that the pre-decree limits for appealing adverse tax determinations remain unchanged. Specifically, the two-month period during which a taxpayer must file a claim with the administrative court does not end until the claim has been rejected affirmatively; the rejection must be reasoned and indicate the procedures and time limits for appealing to the courts. Of course, if no determination is announced after six months, a taxpayer may elect to treat the claim as rejected and pursue recovery of the tax through the administrative court.

Keith Lawson
Deputy General Counsel - Tax Law

[Attachment No. 1](#)

[Attachment No. 2](#)

endnotes

[1] <http://www.conseil-etat.fr/Actualites/Communiqués/Reclamations-fiscales>.

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.