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## Walking in the Wilderness

## The Experiences of a French Tax Lawyer Practicing in the U.S.

By Alev Fanny Karaman

While a French-U.S. perspective is reflected in this article, most foreign tax lawyers practicing in the U.S. may find part of their own experience mirrored here.

Sharing the incredible experience of practicing tax law in the United States evidently encompasses mentioning some main and obvious differences. Among them stand the differences between the practice of tax law in a civil law system as opposed to a common law one, the differences between the practice in a State that has one national lawgiver and the practice in a State that has 52 lawgivers, the differences between the binding force of Legislation drafted at the level of the European Union and legislation drafted at the U.S. Federal level.

But more than the aforementioned main legal differences, the cultural ones appear to be at the very heart of the most striking differences between the French practice of tax law and the American one. The example that best stands for the cultural differences between the two countries lays in the communication with the Tax Authorities. It also constitutes by far the most surprising one when arriving from France. In France, a taxpayer's representation in front of the French Administration Fiscale does not come without its share of hostilities. Written communications that occur prior to the taxpayer's representation by counsel between the French Tax Administration and the taxpayer can often result in very heated exchanges. Once represented by counsel, both sides strictly



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apply procedural rules, the bulk of the exchanges are in written form and oral communications do not entail any substantial information that could be relied upon by the taxpayer in the resolution of the matter at issue.

In the United States on the other hand, communicating with the Internal Revenue Service is inherently different. The communication between the I.R.S. and the taxpayer or the taxpayer's representative is meant for all parties to work together towards the most efficient resolution of the matter for both sides. Picking up the phone and calling the Internal Revenue Service to request an additional day or week to send in the taxpayer's answer to an Information Document Request for instance is not surprising. Nor is it surprising that the oral answer from the agent is trusted in and relied upon, without any written confirmation of the granted extension.

Several factors could explain this difference, among which the fact that the French Tax Authorities' publications are binding on the French Administration Fiscale, whereas I.R.S. publications are not. While this undeniably constitutes a protection for the French taxpayer, it also is a reflection of the overall pressure the Administration Fiscale is under, leading it to permanently be cautious in all its communications with the taxpayer or the taxpayer's representative.

But above all, the driving force behind the cultural differences seems to be American society's core dedication to the business world. In the field of tax law and the taxpayer's representation, this dedication is not only reflected by the Internal Revenue Service's way of communicating with the taxpayer but also by the Internal Revenue Code itself, the detailed Treasury Regulations accompanying it, and the judges' constant effort to explain the thought process they followed in reaching their conclusion, leaving little place to interpretation, hence to uncertainties. In France, the procedure is pedagogical: winning for the correct reason is everything; winning for any other reason leaves an empty feeling.

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