Tax contribution of the SIIC regime

What is the tax contribution made by tax-exempt real estate vehicles? An independent study undertaken by Landwell & Associés (initiated by the *Fédération des Sociétés Immobilières et Foncières* (FSIF)) sought to understand the tax contribution made by French Listed Real Estate Investment Companies (SIICs) to the French government coffers. Focusing on the 2010 fiscal year, this article provides a summary of the key findings of the study, which was carried out between February and June 2012.

SIICs play a significant role in serving the French Economy

The SIIC regime was created in 2003 and represents the main success of the Paris Stock Market in the last ten years. With market capitalisation of close to €50 billion, the capitalisation of these real estate companies exceeds that of real estate companies listed on the London Stock Exchange.

SIICs are the key actors in current urban development programs including the recovery plan of La Defense, the major Euralille and Euromed projects, as well as the urban renovation of Lyon Confluence, Heart Orly, Forum des Halles and Porte de Versailles. Any weakening of the sector would jeopardise these projects for which the total investment is estimated to be €17 billion over the next 5 years.

The SIIC regime is a win-win regime for the French State

The SIIC regime is one of tax transparency:

- Based on the REIT model which is present in 35 countries, it guarantees a single level of taxation by requiring those that elect for SIIC status to distribute at least 85% of current profits as dividends.
- The taxation of profits at shareholder level is a standard requirement of real estate taxation putting SIIC shareholders on an equal footing to that of unitholders in an SPI, OPCI or SCI.
- It obtained the highest grading provided by the Tax Expenditure Evaluation Committee: 3/3 recognising it as an effective measure based on the intended objectives, according to the evaluation of the *Direction de la legislation fiscale*[1].

[1] Report of the Evaluation committee of the tax expenses and social break as of 29th of August 2011.

Taxes paid by SIICs on their taxable results amount to €16m. The tax paid in France by SIIC shareholders (due to the distribution requirements imposed on SIICs), based on their status, amounts to €323m. In addition to their French operations, SIICs also tend to have activities outside France, the results of which are brought into France, therefore, enabling the taxation of these amounts in France.

The tax collected in this way, when compared to the recurring taxable results of the tax exempt SIIC sector of **€552m** in 2010, reflects an effective tax rate of **61%**. The corresponding tax calculated using the standard rate of corporate income tax in France of 34.43% would be €190m. The current SIIC regime therefore enables the French Treasury to generate higher tax revenues than would have been collected if solely the taxable profits of the SIICs had been taxed in France.

It should be noted that these distributions are also taxable in the state of residence of foreign investors. Tax paid abroad could be estimated to be €221m in respect of fiscal year 2010. Therefore, the global tax generated by SIICs in respect of that year could be estimated to be €559m, which reflects an effective rate of taxation amounting to 37% considering distributions made by SIICs in respect of fical year 2010 amounted to close to €1.5 billion.

In case of cessation of the SIIC regime, SIICs would no longer be required to respect certain distribution requirements and these would be expected, therefore, to be significantly reduced. In that case, SIICs would pay corporate income and capital gains tax in respect of their taxable income earned in France. The reduction of the taxable basis would mechanically lead to a decrease of tax income for the French Treasury. Indeed, the French Treasury would have collected a global amount of €220m in respect of fiscal year 2010, compared to €338m being collected under the current regime, meaning a decrease of 35%.

The SIIC regime is therefore a winning regime for the French Treasury and its termination would lead to a decrease of direct tax revenues.

The potential knock-on impact of the SIICs no longer acting as a driver for the construction and equipment industries also needs to be borne in mind, as well as the decrease in local taxation revenues due to a fall in registration duties and local taxes.