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Global Reward Update
France - Proposed changes to the taxation of equity incentive plans

Background

The highly anticipated 2018 Finance Bill and Social Security Bill were approved by the relevant French Parliament Chambers on 24 and 26 October 2017 respectively. These draft bills, which remain subject to change until their final enactment, are expected to modify the tax and social security regimes related to qualified free share plans as of 1 January 2018.

A new tax regime for qualified free share plans

Currently, for qualified free share plans approved after 8 August 2015, the gain realised at vesting is subject to income tax (at progressive tax rates) when the underlying shares are sold. Taper relief may also be available depending on how long the shares are held for.

Under the draft bill, the gain at vesting would remain taxable at sale at progressive rates. However, taper relief of 50% will automatically be available for gains up to EUR 300,000, irrespective of how long the shares are held for.

Reduced employer contribution rate for qualified free share plans

The Macron law enacted in August 2015 lowered the rate of employer contributions (payable on qualified free share awards) to 20% and moved the tax point for these contributions to vesting (instead of grant). The 2017 tax bill increased the rate to 30%.

Under the current draft bill, the rate for employer contributions may be reduced back to 20% (due at vesting) for awards approved by shareholders after enactment of the legislation.

Introduction of a flat tax rate on investment income

Currently, investment income (such as interest, dividends and capital gains arising on the sale of shares) is subject to income tax at progressive tax rates of up to 45% (with rebates available, depending on the type of income) and social tax at a rate of 15.5%.

As of 1 January 2018, investment income will be subject to a 30% flat tax rate, inclusive of income tax at a rate of 12.8% and additional social surtaxes (i.e. CSG) at a rate of 17.2%. Taxpayers subject to a marginal tax rate lower than 30% may elect for progressive income tax rates to apply to their investment income.

The additional contribution for high income individuals (3% or 4%, depending on the individual’s level of income) would also continue to be due.

Changes to wealth tax

As of 1 January 2018, the current wealth tax regime will be replaced by a tax applied only to real estate assets valued over €1.3 million (“Impôt sur la fortune immobilière”). As a result, shares (including shares acquired under an equity incentive plan) would be excluded from the new wealth tax regime.

Deloitte view

Companies which operate French qualified free share plans should consider:

- Identifying the tax and social security regime that applies to their existing and future free share grants. This is due to successive tax and social security regime amendments and the potential to arbitrate between several existing regimes for their 2018 awards;

- Issuing appropriate communication to their employees in order to make them aware of the individual income tax and social security regimes applicable to their share awards in France.