France alert
Finance bill for 2018 published

The French finance bill for 2018 released on 27 September 2017 contains beneficial measures for both individuals and companies. Making good on President Macron's campaign pledge, the bill contains two main reforms that would affect individuals: the abolition of the wealth tax and the introduction of a final 30% flat tax on capital income (i.e. dividends, interest and capital gains). The wealth tax would be replaced by a tax levied only on real property, and the 30% flat tax would replace the current progressive rates (up to 45%) that are levied on capital income, plus the social levies (currently 15.5%).

The following measures affecting companies aim to make the French corporate tax environment more attractive:

Reduction of corporate income tax rate

The corporate income tax rate would be gradually reduced to 25% by 2022. The rate reduction would be spread over the period from 2018 to 2022 but—contrary to measures included in the 2017 finance law—each annual step to achieve the 25% rate would apply to all companies and to all taxable profits (for prior coverage, see the alert **dated 23 December 2016**).

However, keeping in line with company expectations, the rate reduction adopted under the 2017 finance law would be maintained for 2018: a 28% rate would apply to the first EUR 500,000 of profits for all companies (with the remaining profits subject to the 33.33% standard rate). In 2019, the standard rate would drop to 31% (but the 28% rate still would be applicable on profits below EUR 500,000). The 31% rate would be reduced to 28% in 2020 (applicable on the entire amount of taxable profits), 26.5% in 2021 and finally 25% in 2022.

The 3.3% social surcharge that applies in certain circumstances would continue to apply to the corporate income tax, bringing the 25% standard rate in 2022 to an effective rate of 25.8%.

Abolition of 3% surtax on profit distributions

The 3% surtax on profit distributions has been the target of intense criticism since it was introduced, and has given rise to claims that the tax was contrary to EU law, tax treaties and the French constitution. The surtax, imposed on French entities subject to corporate income tax, is levied on most dividend distributions at the level of the French payer, although certain distributions are exempt.

In 2016, the French constitutional court ruled that the exemption from the surtax that applied only to distributions made within a French tax-consolidated group violated the constitution, and as a result, the government broadened the scope of the exemption (for prior coverage, see the tax alerts **dated 5 October 2016** and **23 December 2016**). In addition, the European Commission has initiated an infringement procedure against the surtax. Finally, on 17 May 2017, the Court of Justice of the European Union held that dividends distributed by a French company that represent a redistribution of dividends the company previously received from an EU subsidiary cannot be subject to the 3% surtax, because this would be a form of a double taxation prohibited by the EU parent-subsidiary directive (for prior coverage, see the alert **dated 18 May 2017**).

The French government now has announced that it intends to abolish the 3% surtax for dividends paid as from 1 January 2018.

Abolition of *Carrez* rule

The anti-abuse rule known as the "*Carrez*" rule would be abolished. Introduced in 2011, the *Carrez* rule limits the deductibility of interest expenses relating to the acquisition by a French company of a controlling interest in another company. Under the rule, the deduction of related financing costs is disallowed for an eight-year period if the French acquiring company is unable to demonstrate that it effectively made the decisions relating to the participation and that it effectively exercises control over the acquired company.

Changes to tax credit for competitiveness and employment (CICE)

The CICE was introduced in 2013 as a means to reduce the cost of employing workers (for prior coverage, see the *World Tax Advisor* **article dated 25 January 2013**). The tax credit, based on the wages an entity pays to its employees over the calendar year, currently is 7% of gross payroll on the portion of remuneration that does not exceed 2.5 times the national minimum wage. The CICE generates a receivable against the French treasury that may be offset against the entity's corporate income tax liability, or refunded after three years.

The finance bill would reduce the CICE from 7% to 6% as from 1 January 2018, and then abolish the credit altogether in 2019, replacing it with a reduction of the employer' share of social security contributions.

Abolition of expansion of scope of financial transactions tax (FTT)

The 2017 finance law extended the scope of the FTT to apply to intraday transactions as from 1 January 2018 (for prior coverage, see the alert **dated 23 December 2016**). (Intraday transactions are considered speculative and they pose a risk to financial markets.) The effective date of the extension was postponed to 2018 to allow affected parties adequate time to update their systems and procedures.

The finance bill for 2018 provides that the extension of the scope of the FTT would be abolished before the change becomes effective.

Abolition of top payroll tax bracket

A payroll tax applies to corporations that are not subject to VAT, or where at least 90% of an entity's annual turnover was exempt from VAT in the previous year. Banks and insurance companies are the main groups affected by the payroll tax. The tax is assessed on the gross salaries of employees at the following rates: 4.25% on salaries up to EUR 7,721; 8.5% on the portion of the salary between EUR 7,721 and EUR 15,417; 13.6% on the portion of the salary between EUR 15,417 and EUR 152,279; and 20% on gross salaries exceeding EUR 152,279. The payroll tax is deductible for corporate income tax purposes.

The top payroll tax bracket (i.e. the 20% rate) would be abolished for salaries paid as from 1 January 2018. The marginal rate then would be 13.60% on salaries exceeding EUR 15,417.

Comment

The finance bill is expected to be approved at the end of December 2017, subject to confirmation by the constitutional court.

Contacts

If you have any questions or would like additional information on the topics covered in this alert, please email one of the following Deloitte professionals:

Nathalie Aymé
nayme@taj.fr

Christophe Le Bon
clebon@taj.fr

Grégoire Madec
gmadec@taj.fr

Sophie Tardieu
stardieu@taj.fr

Taj is a member firm of Deloitte Touche Tohmatsu Limited

Additional resources

Global Tax Alerts subscription page

Global Tax Alerts archive

World Tax Advisor

Deloitte International Tax Source (DITS)

Deloitte tax@hand app

Dbriefs

www.deloitte.com/tax