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France alert

Large companies to be subject to one-time exceptional surtax on corporate income tax

On 2 November 2017, the French government presented to parliament an amended finance bill for 2017 that would introduce an exceptional one-time surtax on corporate income tax due from very large companies. Large companies are those whose annual turnover exceeds EUR 1 billion (likely affecting approximately 300 companies). The imposition of the exceptional surtax would have the effect of increasing the corporate income tax due for one fiscal year (FY).

The amended finance law is expected to become effective in mid-December to allow companies to make the required surtax payment, which will be due by 20 December 2017.

Two surtax rates are proposed that would apply, depending on a company's annual turnover (for tax-consolidated groups, the applicable rate would be based on the total turnover of all companies in the group). The surtax would increase the corporate income tax due for the year ending between 31 December 2017 and 30 December 2018—FY 2017 for companies having a FY closing date in line with the calendar year.

Companies with turnover above EUR 1 billion but below EUR 3 billion would be subject to a 15% surtax on the amount of their corporate income tax liability. A higher rate of 30% would apply to large companies whose turnover equals or exceeds EUR 3 billion. The maximum effective tax rate then would be 44.4% for companies whose turnover equals or exceeds EUR 3 billion, and 39.4% for other companies subject to the exceptional surtax. Affected companies whose FYs end on 31 December 2017 would be required to pay 95% of the surtax due by 20 December 2017. The balance would be aligned with the date the remaining corporate income tax liability would be due (i.e. 15 May for companies having a FY closing date in line with the calendar year).

The aim of the exceptional surtax is to finance the reimbursements from the French Treasury that will result from the recent decision of the constitutional court (for prior coverage, see the tax alert dated 6 October 2017). The court held that the 3% surtax on profit distributions—in its entirety—violates the French constitution. As a result of the decision, surtax reimbursements in 2017 and 2018 will approach EUR 10 billion.

To meet its EU commitment to reduce the public deficit below 3% of GDP, the French government decided to introduce the exceptional surtax to compensate for the unprovisioned amount of the 3% tax that will have to be repaid for 2017. As a result, the budget will not be affected for 2017.

The one-time surtax is designed to place the burden on French companies that will benefit from a refund of the 3% surtax unduly paid following the decision of the constitutional court. However, it is possible that companies that did not distribute dividends in the past, but currently realize large profits will have to pay the exceptional surtax without necessarily benefiting from the positive financial consequences of the constitutional court decision.

Contacts

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