# FRENCH FINANCE BILL 2020: IMPACTS ON CORPORATE TRANSACTIONS (PART 2/3)

31 JANUARY 2020 • ARTICLE

## INTRODUCTION

**The French Parliament adopted several new corporate tax, individual income tax and tax litigation measures in the Finance Bill for 2020, which was passed on 28 December 2019. Most of these new tax rules came into force on 1 January 2020. This is the second of a series of three linked articles focussing on specific aspects of France's 2020 Finance Bill we believe will be of the special interest to our readers. This article discusses the impact the new bill will have on corporate transactions and the management of large French corporations.**

## FAVOURABLE MEASURES FOR MERGERS

1. The 2020 Finance Bill extends the tax-free regime to mergers between sister companies under the new simplified legal regime adopted in 2019. This new rule applies retroactively from 21 July 2019.
2. The transfer of tax losses from the absorbed company to the absorbing company is subject to a tax ruling in certain circumstances. The 2020 Finance Bill allows the transfer of tax losses which do not exceed €200,000 without a tax ruling in certain circumstances.

"The 2020 Finance Bill introduces specific measures to prevent the abuse of subcontracting schemes, which allowed some taxpayers to benefit several times from the research and development tax credit."

## AMENDMENT OF THE RESEARCH AND DEVELOPMENT TAX CREDIT

The 2020 Finance Bill decreases the percentage (from 50% to **43%**) of staff expenses taken into account as qualifying expenses in assessing the lump-sum running costs referred to in Article 244 quarter B-II-c of the FTC.

Also, the 2020 Finance Bill introduces specific measures to prevent the abuse of subcontracting schemes, which allowed some taxpayers to benefit several times from the research and development tax credit.

These two measures apply to expenses incurred **on or after 1 January 2020**.

## CHANGES TO THE CORPORATE INCOME TAX CREDIT FOR GIFTS

Under the former rules, French companies were able to benefit from a tax credit equal to 60% of the gifts made to specific charitable organisations, subject to a limit equal to the higher of (i) €10,000 and (ii) 0.5% of the company's turnover (Article 238 bis of the FTC). The 2020 Finance Bill decreases from 60% to **40%** the percentage mentioned above for the portion of the gifts exceeding €2 million. It also increases the fixed €10,000 threshold mentioned above to **€20,000**.

These measures apply to **fiscal years ("FYs") ending on or after 31 December 2019**.

## VAT MEASURES

The 2020 Finance Bill provides for several new VAT measures regarding, among other things, the distance sales of goods and the distance sales of goods imported aimed, in particular, at reducing VAT fraud.

## TAX AUDIT AND TAX LITIGATION MEASURES AGAINST TAX FRAUD AND TAX EVASION

The 2020 Finance Bill provides for several new tax litigation measures aimed at reducing tax fraud and tax evasion, such as publishing the list of internet platforms that do not cooperate with the tax authorities and the possibility for tax and customs authorities to collect and use data made public on the websites of social networks and platform operators.

> "Senior executives of large French corporations may be deemed tax-resident in France."

## NEW TAX RESIDENCE RULE FOR SENIOR MANAGEMENT OF LARGE FRENCH CORPORATIONS

The 2020 Finance Bill adds a new domestic law criterion for French tax residency purposes for corporate executives: executives of large French corporations whose annual turnover exceeds €250 million are now deemed to perform their principal professional functions in France, subjecting these executives to French individual income tax. This measure establishes a link, for domestic tax rules purposes, between those functions and the executives' French tax residence. The executives referred to above include the Chairman of the Board of Directors, the Chief Executive Officer, the Deputy Chief Executive Officers, the Chairman and members of the Management Board ("*Directoire*"), Managing Directors and other executives with similar functions. The government estimates that it should affect approximately **100 individuals. This measure applies to individual income tax calculated on 2019 income, on or after 1 January 2020 for French real estate wealth tax, and to gifts and inheritances occurring on or after 1 January 2020.**

## CLARIFICATION OF THE INTEREST EXPENSES DEDUCTION LIMITATION

The 2019 Finance Bill introduced a wide reform of the finance expenses deduction limitation, implementing the ATAD directive to align French rules with EU rules. The 2019 reform introduced a global limitation of the deductibility of net finance expenses.

The 2020 Finance Bill clarifies the two following points:

- The definition of "adjusted tax EBIDTA", used as the basis for the computation of the ratios of deductible net finance expenses for companies, is now based on the taxable profits of the company after offsetting carried forward tax losses and before applying the new rules regarding the net finance expenses deduction limitation introduced by the 2019 reform; and

- Companies which are not members of a consolidated group for accounting purposes and do not own any foreign establishment or affiliated entities can benefit from an **additional 75% deduction** of the non-deductible net finance expenses allowed after applying the new definition of "adjusted tax EBIDTA" mentioned above (Article 212 bis of the French tax code "FTC").

Such clarifications apply to **FYs ending on or after 31 December 2019**.

READ PART ONE HERE OR READ PART THREE HERE.

## KEY CONTACTS


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