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France –Temporary Tax on High Remuneration Compliance Developments

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The filing deadline is quickly approaching for France's *Taxe exceptionnelle de solidarité sur les hautes rémunérations* (hereafter, "temporary tax"). The temporary tax, which covers many forms of remuneration and is payable by the company, applies generally in the year in which the remuneration is expensed in the company's accounts.

The French Finance Act for 2014 introduced this temporary tax, which is due by employers at a rate of 50 percent on the portion of remuneration that exceeds EUR 1 million per year per individual in calendar years 2013 and 2014 (see [Flash International Executive Alert 2014-017](#), 6 February 2014).

Why This Matters

With the filing deadline of 30 April 2014 coming up soon, the French tax authorities only last week released the form required to compute and pay the tax. Employers may be challenged to meet, in such a short period of time, their compliance obligation, particularly as the tax authorities have yet to clarify a number of issues surrounding the temporary tax.

The types of remuneration and benefits falling within the scope of the tax are as follows:

- Wages, salaries, any other similar items and benefits in cash or in kind;
- Directors' fees;
- Retirement pensions, severance packages, allowances, or benefits, and any other items paid in relation to a retirement;
- Amounts granted in accordance with the provisions of the French Labor Code regarding employee profit-sharing and employee savings plans (*participation, intéressement, épargne salariale*);
- Grant of options, Restricted Stock Units, BSPCEs (equity award for newly incorporated entities); and
- Reimbursements to other entities of remuneration listed above. This is to ensure that the tax is still due even if the remuneration has been split between several entities whether in France or abroad.

The tax applies for the year in which remuneration is expensed in the company's accounts. However, French qualified share awards are taxable in the year of grant. The basis is similar to the basis of the French 30-percent employers' social contribution due at grant, meaning either the face value of the shares (for free share awards, this is 100 percent of the value of the shares; for stock options, it is 25 percent of the value) or the value as stated for IFRS2 purposes.

The tax is payable on or before 30 April 2014, for remuneration expensed or granted in 2013. It is capped at 5 percent of the 2013 turnover of the paying/granting entity.

The tax, due on 1 February 2014, must actually be paid on or before 30 April 2014, using the specific form, which has now been provided by the French tax authorities.¹

It is meant to be a two-year tax and will be due before 30 April 2015, in relation to remuneration expenses or granted in calendar year 2014.

FIDAL Note

There are still unanswered questions. Although clarification was expected in the form of guidance, it seems that such guidance will not be published in time for this year's filing.

Employers based in France (including permanent establishments of foreign entities) now need to finalize their submissions to the French tax authorities.

Footnote:

1 Article 15 de la loi 2013-1278 du 29 décembre 2013 de finances pour 2014. For the Form, see: http://www.impots.gouv.fr/portal/deploiement/p1/fichedescriptiveformulaire_9027/fichedescriptiveformulaire_9027.pdf.

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The information contained in this newsletter was submitted by FIDAL Direction Internationale in France. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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