France: Tax-related provisions in finance law for 2024

The French Finance Act (FFA) for 2024 was adopted on 21 December 2023 by the French Parliament and became effective after being published to the official gazette. The most significant measures affecting companies include:

- The implementation of the EU Directive on Pillar Two into domestic law
- The adjustment of the time table for phasing out the contribution on companies' added value (*cotisation sur la valeur ajoutée des entreprises*—CVAE) between 2024 and 2027
- The introduction of a new tax credit for investments in "green industries"
- The alignment of the parent-subsidiary regime with EU law
- The implementation of several measures strengthening transfer pricing documentation requirements

Implementation of the EU Pillar Two Directive into domestic law

In line with the government's previous announcements, as well as France's European commitments, the FFA for 2024 implements the EU Directive on the global anti-base erosion rules (GloBE) (also known as Pillar Two), into domestic law and introduces in France a minimum tax rate set at 15% on adjusted profits of multinational enterprises (MNEs). These rules will apply to companies (and permanent establishments) located in France that are members of a multinational group with consolidated revenues over €750 million in two of the previous four fiscal years, but also, to comply with EU law, to large national groups whose activities are carried out solely in France (if the thresholds are exceeded).

It will result in the introduction of a top-up tax payable by the group's ultimate parent entity (UPE) or intermediate parent entity, established in France, when the effective tax rate (ETR) of the group's constituent entities located in any given jurisdiction is below the minimum tax rate of 15%. This additional top-up tax will be collected under two distinct rules:

- A main rule known as the income inclusion rule (IIR), under which the top-up tax will be paid by the UPE

- A fall-back rule known as the undertaxed profits rule (UTPR), which will apply when the full amount of the top-up tax cannot be collected under the IIR (i.e., when the UPE is established in a jurisdiction that does not apply the GloBE rules)

The wording proposed in the FFA for 2024 is in line with the Pillar Two Directive but also with some of the comments and administrative guidelines adopted by the OECD/G20 Inclusive Framework after the adoption of the EU Directive (in February and July 2023).

In addition, France has decided to exercise its option to introduce a qualified domestic minimum top-up tax (QDMTT) that will reduce to zero the top-up tax calculated in application of the IIR as far as French constituent entities of an MNE group are concerned.

The finance law also provides for temporary safe-harbor measures (relying on country-by-country (CbC) reporting data) for FY 2024, 2025 and 2026 and sets out the reporting and payment obligations of entities belonging to a multinational group that is subject to the GloBE rules (as well as the penalties applicable in the event of failure to meet such obligations).

These rules will apply to fiscal years beginning on or after 31 December 2023, except for the UTPR that will apply to fiscal years beginning on or after 31 December 2024.

Contribution on companies' added value (CVAE): The two-phase abolition becomes a four-phase repeal

The CVAE is a component of the territorial economic contribution (CET) due by companies that carry out an activity taxable under the business property tax (CFE) (i.e., non-salaried professional activity carried out on a regular basis) and whose turnover is over or equal to €500,000.

The Finance Law for 2023, enacted in December 2022, provided for a two-phase abolition of the CVAE (tax rates reduced by 50% in 2023 before being eliminated altogether in 2024). However, to mitigate the impact of the suppression on public finances, the government decided to spread the elimination of the remaining half of the CVAE linearly over four years. The maximum tax rate will thus be set at 0.28% in 2024, 0.19% in 2025 and 0.09% in 2026.

Turnover threshold	**ETR as provided for in the FFA for 2023**	**ETR as provided for in the FFA for 2024**		
		2024	2025	2026
Turnover below €500k	0%	0%	0%	0%
Turnover comprised between €500k and €3m	**0,125** % × (turnover - €500k)/€2,5m	**0,094** % × (turnover - €500k)/€2,5m	**0,063** % × (turnover - €500k)/€2,5m	**0,031** % × (turnover - €500k)/€2,5m
Turnover comprised between €3m and €10m	**0,125** % + **0,225** % × (turnover - €3m)/€7m	**0,094** % + **0,169** % × (turnover - €3m)/€7m	**0,063** % + **0,113** % × (turnover - €3m)/€7m	**0,031** % + **0,056** % × (turnover - €3m)/7m
Turnover comprised between €10m and €50m	**0,35** % + **0,025** % × (turnover – €10m)/€40m	**0,263** % + **0,019** % × (turnover – €10m)/€40m	**0,175** % + **0,013** % × (turnover – €10m)/€40m	**0,087** % + **0,006** % × (turnover – €10m)/€40m
Turnover over €50m	**0,375** %	**0,28** %	**0,19** %	**0,09** %

The CVAE will finally be repealed in 2027, while the rate of the additional tax on the CVAE will be simultaneously increased to offset the CVAE rate drop (9.23% in 2024, 13.84% in 2025, 27.84% in 2026). The capping rate of the CET will be set at 1.531% in 2024, 1.438% in 2025, 1.344% in 2026 and 1.25% in 2027 of the added value.

This measure will have to be taken into account when computing the 2024, 2025 and 2026 CVAE instalments, which will have to be updated accordingly.

Introduction of a new tax credit for investments in “green industries”

In line with the announcements made by the government when presenting the draft law on green industry (recently definitively adopted by Parliament), the FFA provides for the creation of a tax credit for investments in green industry (known as C3IV for *Crédit d’Impôt au titre des Investissements en faveur de l’Industrie Verte*). This new incentive, which relies on the new investment aid possibilities opened up by the Temporary Crisis and Transition Framework adopted by the European Commission in March 2023, aims at developing strategic sectors for transitioning to a low-carbon economy.

It will be open—subject to **prior approval by the French authorities**—to investments made at each strategic stage in the production chain for batteries, solar panels, wind turbines or heat pumps and their direct inputs (essential components and sub-components designed and used primarily as direct inputs). Eligible expenses will be those incurred for the production or acquisition of tangible or intangible assets enabling the production of these technologies essential to the energy transition.

Only investment plans approved no later than 31 December 2025 will be eligible for the tax credit. Companies will have to meet several conditions to qualify (i.e., mainly (1) not be an undertaking in difficulty within the meaning of EU law, (2) comply with their tax and social obligations and the environmental legislation, (3) operate the eligible investments for at least five years, (4) not to have transferred eligible activities from an EU member state to France during the preceding two years and vice versa, out of France in the five years of the investments being brought into service).

The tax credit rate will be set at 20% (25% or 40% for investments in certain specific geographical areas) and increased by 10 percentage points for medium-sized companies and 20 percentage points for small businesses. It will be capped at €150 million per company (€200 or €350 million for the aforementioned areas).

Approval is expected to be granted within three months after the complete application is submitted to the FTA (French tax authorities), which will refer the matter to the state environmental agency for its assent. Applications may be filed since the 27 September 2023, being noted that the three months deadline will—in that case—run as from the date of entry into force of the measure, which can happen only after the European Commission confirms that the C3IV is compliant with EU law on State aid – which happened on 8 January 2024.

Once approved, the tax credit will be granted as expenses incur. The amount of unused tax credit will be refunded.

Alignment of the parent-subsidiary regime with EU law

The Court of Justice of the European Union (CJEU) on 11 May 2023 held that the French legislation, which allows a resident parent company that has opted for tax integration with resident companies, to neutralize the tax on dividends received from subsidiaries located in other member states, but does not extend the same benefits to an eligible resident parent company that has decided not to opt for such tax integration, is contrary to EU law (read Euro Tax Flash from KPMG's EU Tax Centre).

The French tax integration scheme was amended since the facts of the present case so that, under rules currently in force, an add-back amounting to 1% of dividends distributed between companies that are part of a tax-integrated group is allowed (instead of 5% for non-integrated groups). The reduced 1% rate also applies in respect of EU subsidiaries that would have been eligible to benefit from tax-integration had they been tax resident in France, but not where the French parent company did not opt for tax-integration despite that it would be eligible to do so.

In order to align the parent-subsidiary regime with this decision, for fiscal years ending on or after 31 December 2023, the FFA for 2024 extends the application of the 99% participation exemption to dividends paid by an EU 95%-held company to a French company, regardless whether the latter is a member of a French tax-consolidated group or not, provided that—if the EU-95%subsidiary would have been established in France—both companies could have constituted such a group for at least one year.

Implementation of a plan to step-up the fight against tax fraud

At the beginning of May 2023, the French government presented a new plan to fight all forms of public finance fraud, including tax fraud. The FFA for 2024 implements several measures of this plan, in particular the extension of transfer pricing documentation requirements.

For financial years commencing on or after 1 January 2024, the threshold for triggering the obligation to keep a full transfer pricing policy documentation permanently available to the French tax authorities, currently set at €400 million in revenues (or gross assets), will be lowered to €150 million. These new requirements will likely apply to a much wider range of companies and require many of them to prepare a transfer pricing documentation for the first time.

Also, for financial years commencing on or after 1 January 2024, companies will be bound by their documentation when the policy it describes is not applied (presumption of indirect profit transfer for the identified difference).

Furthermore, as of 1 January 2024, a failure to respond or a partial response to a request for transfer pricing documentation will be punished more severely, with the corresponding fine not lower than €50,000 (compared to €10,000 currently).

Finally, for financial years commencing on or after 1 January 2024, the period within which the FTA may recover tax on transfers of intangible assets will be extended to the end of the sixth year following the year in respect of which the corporate income tax is due, a significant increase of the standard statute of limitations of three years.

Contact us

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