



FEBRUARY 2024

France – Tax Highlights

FRENCH FINANCE ACT FOR 2024

The French Finance Act (FFA) for 2024 was adopted on December 21st, 2023, by the French Parliament and came into force after being published in the official gazette.

This Tax update summarizes some of the main tax measures included in the Finance Act.

TRANSFER PRICING

The **revenue/gross-asset threshold** triggering the obligation to provide transfer pricing documentation to the French Tax Authorities upon its request during a tax audit has been reduced **from €400m to €150m**. In addition, the minimum fine for failure to provide such documentation has been raised from €10,000 to €50,000.

Above all, the law **reverses the burden of proof** by introducing a new simple presumption of indirect profit transfer in the event of a discrepancy between income and the amount it would have reached had the transfer pricing documentation submitted to the tax authorities been complied with. In practice, this is a real "revolution", which will **oblige companies to regularly check the consistency between the documentation drawn up and the results declared**.

The law also strengthens tax authorities' control tools with regard to **transfers of hard-to-value intangible assets (HVTI)**, extending tax authorities' recovery period in this area, and introducing an exception to the prohibition on repeating an accounting audit. To carry out "ex post" rectifications of AIDV transfers, tax authorities now have a recovery period expiring at the end of the 6th year following the year in respect of which the tax is due (new article L 171 B of the French Tax Procedure Code).

These new requirements apply to fiscal years starting on or after January 1st, 2024.

TAXATION OF INTRA-GROUP DIVIDENDS: opportunities and bad surprises

For fiscal years ending on or after 31 December 2023, **French parent companies receiving dividends from eligible EU or European Economic Area (EEA) subsidiaries may benefit from a reduced taxation** (equal to 1% - rather than 5% - of the dividends) even though they chose not to form a tax-consolidated group with their French subsidiaries. This measure applies to all

dividends irrespective of whether they are within or outside the scope of the parent-subsidary regime.

However, to benefit from these provisions, the condition of holding shares or belonging to the tax consolidated group for at least one financial year has been reintroduced. This will apply from the financial year ending on December 31st, 2023. **Companies newly integrated in 2023, or European subsidiaries held for less than one financial year, will need to be careful: the 5% rate is applicable.**

REPEAL OF THE BUSINESS CONTRIBUTION ON THE ADDED VALUE (BCAV- "CVAE")

The CVAE is a component of the territorial economic contribution ("CET") owed by any person carrying out a trade or business in France and levied on the added value that the trade or business generates.

On the one hand, instead of being abolished as of 2024, as initially scheduled, the CVAE tax rate will be gradually reduced (i.e., 0.28% in 2024, 0.19% in 2025, 0.09% in 2026) and **completely abolished in 2027**. The CET cap has also been lowered. On the other hand, the rate of the CVAE additional tax will increase until it eventually disappears in 2027.



CREATION OF A TAX CREDIT FOR INVESTMENT IN GREEN INDUSTRY

The Bill provides for the creation of a tax credit for investments in green industry. This tax credit will benefit companies setting up or developing production facilities related to batteries, photovoltaic panels, wind turbines and heat pumps in France.

Subject to compliance with certain conditions, notably prior approval from the French Tax Authorities, the rate calculated on eligible expenditure would vary from company to company (between 20% to 40% for SMEs). Its amount would be capped according to certain criteria.

Companies may begin submitting their ruling requests before the FTA on or after September 27th, 2023. in anticipation of their being granted no later than December 31st, 2025.

IMPLEMENTATION OF THE EU PILLAR TWO DIRECTIVE (MINIMUM TAXATION DIRECTIVE 2022/2523) INTO FRENCH DOMESTIC LAW

The aim of these new, unusually complex, rules is to guarantee a minimum effective tax rate of 15% per jurisdiction.

To date, the directive applies to multinational groups with consolidated sales of €750 million or more in two of the last four financial years, as well as to French groups reaching such a threshold (with a tolerance for the first 5 financial years, subject to conditions).

The new system, which is exceptionally complex and imperfectly transposed, is likely to lead to double taxation insofar as the base subject to the minimum tax is "autonomous" and not identical to that used to calculate corporate income tax.

MAIN INDIVIDUAL TAX MEASURES

The main individual income tax measures are the following:

- **Adjusting individual income tax brackets** (*impôt sur le revenu*) to the inflation rate, set at 4.8%. For income received in 2023 and assessed in 2024, the income tax brackets will be as follows:

Amount (EUR)	Rate (%)
Up to 11,294	0%
11,295 – 28,797	11%
28,798 – 82,341	30%
82,342 – 177,106	41%
Over 177,106	45%

- **Prolonging tax measures regarding the taxation of housing.** Accordingly, the law reviews and extends the interest-free loan program for first-time homebuyers (*prêt à taux zero, PTZ*) and housing energy performance improvements (*eco-PTZ*) through 31 December 2027.



- **New taxation rules for furnished tourist accommodation**
- **Real estate wealth tax (“Impôt sur la fortune immobilière”).** As a reminder, unless an international tax treaty applies, non-residents of France who hold real estate assets in France, whether directly or indirectly, fall fully within the scope of the IFI and are taxed in accordance with ordinary law. The new provisions introduced by the Finance Act for 2024 provide a framework for the rules previously applicable for determining the value of shares in a real estate company subject to the IFI. It will therefore require each taxpayer to carry out a precise analysis of their situation on January 1st, 2024 (for submission of the IFI return on May 15th, 2024).

DOUBLE TAX TREATIES UPDATE

- Tax Treaty between France and Greece enters into force. It generally applies from January 1st, 2024, for withholding and other taxes.
- Tax Treaty between France and Denmark enters into force. It generally applies from January 1st, 2024, for withholding and other taxes (specific provisions for pensions).
- French National Assembly approves Tax Treaty with Moldova
- French Council of Ministers approves Protocol to Tax Treaty with Luxembourg. The new protocol extends the so-called tolerance threshold from 29 to 34 days under the treaty. The provisions will apply to tax periods on or after January 1st 2023, once the protocol is in force.

- France announces activation of most-favoured nation (“MFN”) clause in Tax Treaty with Kenya, which may imply a more favorable limitation of the withholding tax on dividends (8% under conditions or 10% in all other cases).

Any further developments will be reported in due course.

Contributors



Odile Courjon

Of Counsel – Indirect
taxation

+33 1 44 05 21 01

odile.courjon@pdgb.com



Charlotte Vénard

Counsel – Direct taxation

+33 1 44 05 21 15

charlotte.veniard@pdgb.com

The tax team

Benoît Dambre

Partner

Vincent Garcia

Partner

Thierry Jestin

Partner

François Morazin

Partner

Odile Courjon

Of Counsel

Arnaud Giroire

Counsel

Charlotte Vénard

Counsel

Sanissa Guiorguieff

Associate

Raphaël Sarfati

Associate

Thibault Soria

Associate



Our law firm

<https://pdgb.com/en/>



PDGB is a multi-disciplinary business law firm with over 38 years of experience in France and abroad.

We place customer relations at the heart of our business. That's why our priority is to anticipate and understand changes in society, so as to imagine and create new legal solutions tailored to your needs. We have made it our priority to anticipate and understand the changes taking place in today's society, in order to imagine and create new legal solutions tailored to your needs.

Loyalty, commitment and creativity are at the heart of the lasting relationships we develop with you, our staff and our partners. Our advice is based on a long-term perspective and a responsible legal approach.

Our in-depth understanding of the market, combined with our global vision of society and its evolution, enable us to offer you tailor-made support for your strategic projects.

Our accreditation as a training organization is also an asset, enabling us to get to know our customers better and identify their needs in terms of legal advice.

Solide and agile, mature and visionary, stable and on the move, PDGB is committed to your projects over the long term.

+38

YEARS OF EXPERIENCE

50

LAWYERS

13

EXPERTISES

