

## COVID-19 Crisis: French Tax and Social Contributions Measures for Businesses — Updated

***The French government has announced emergency measures regarding taxes and social contributions in order to protect businesses from the impact of the crisis.***

### Key Points:

- Businesses may request delays for the payment of taxes and social contributions.
- Refunds may be granted on a case-by-case basis.
- Tax credits repayments are accelerated.
- Large companies distributing dividends and/or established in non-cooperative States or jurisdictions are generally excluded from the governmental support.
- Certain procedural and filing deadlines are adjusted to take into account the crisis.

Since March 12, 2020, the French government has announced immediate measures that aim to protect businesses from the impact of the COVID-19 crisis, including at this stage €134 billion worth of direct tax and social breaks as well as financial support for businesses implementing partial unemployment measures. These measures are in addition to a guarantee by the French State of up to €300 billion in respect of bank loans granted to businesses and the creation of a solidarity fund to provide all small businesses and independent workers with financial subsidies composed of two distinct items: (i) a subsidy from the French State for an amount of up to €1,500 and (ii) a subsidy from French regions for an amount between €2,000 and €5,000. The government also indicated that nationalization of certain businesses might be contemplated, if necessary.

On March 27, 2020, the French government announced that its support will be denied to certain companies that will proceed to dividend distributions to the benefit of their shareholders in 2020. Such companies or groups of companies would be those employing more than 5,000 persons or having a consolidated annual turnover of at least €1.5 billion in France.

In a [press release on April 3, 2020](#), the French government also announced the possibility to defer the payment of social contributions and direct corporate taxes normally due in April.

The second amended Finance law for 2020 (*Loi n° 2020-473 de finances rectificative pour 2020*, adopted on April 25, 2020 — the Second Amended Finance Law) notably increases the financial support from the French State and aims to strengthen the efficiency of the emergency measures.

In a [press release on May 4, 2020](#), the French government announced an extension of the possibility to defer the payment of social contributions normally due in May, an option that was already available for those social contributions payable in April. In addition, large companies with headquarters or subsidiaries established in non-cooperative States or jurisdictions would no longer be eligible to benefit from the financial support of the French State. Finally, in a [press release on June 2, 2020](#), the French government announced another extension of the possibility to defer the payment of social contributions due on June 5, 2020, and June 15, 2020, respectively, subject to a prior request by the eligible companies to their respective collecting authorities.

A draft of the third amended Finance law for 2020, which is currently being debated before the French Parliament, includes additional support measures such as special tax and social contributions relief for impacted sectors. Companies subject to corporate income tax might also request, as from 2020, accelerated repayment of the carry-back losses receivables that they own against the French State, as well as accelerated repayment of the carry-back losses receivables that will be generated in 2020.

## Tax Measures

### Postponed deadlines for the payment of taxes, potential refunds of taxes, accelerated repayment of tax credits and other contemplated measures

- Businesses may request from their tax office a delay of up to three months, without any penalty or interest for late payment, for the payment of all their direct taxes and without the need to provide any particular justification:
  - Although the announcement referred to a deferral of payment of “direct taxes”, such deferral should more generally apply to all taxes payable by French businesses, including, for example, corporate income tax and wages tax (*taxe sur les salaires*), but with the exception of VAT and similar taxes, the withholding of income tax made by employers on wages paid to their employees (*prélèvement à la source*) and the French tax on insurance contracts (*taxe spéciale sur les conventions d’assurance*);
  - As a matter of example, for all companies, the payment of the corporate income tax installment of March 15 could be delayed until June 15. Companies that have already paid such installment may request its repayment from their tax office.
- Monthly payments of the business real estate contribution (*cotisation foncière des entreprises*, or CFE) or the real estate tax (*taxe foncière*) may be suspended on the [French tax authorities website](#) or by contacting the *Centre Prélèvement Service*. The deferred payment amounts will become payable at the same time as the balance payment.
- On April 6, 2020, the French tax authorities published additional measures regarding VAT:
  - Businesses suffering difficulties to prepare their VAT returns because of the crisis context may establish such tax returns on an estimated basis with an accepted rate of mistake of up to 20%;

- Businesses suffering a decrease of their turnover because of the crisis may declare for the months of March and April an amount of VAT equal to: (i) by default, 80% of the amount of VAT declared for the month of February, or (ii) if the activity is stopped or highly affected (decrease of at least 50%) since the middle of the month of March, 50% of the amount of VAT declared for the month of February. A regularization would take place after the crisis;
  - Paper invoices may be sent to clients by electronic means (e.g., email) without consequences on the right to deduct VAT;
  - A similar treatment has been extended by the French tax authorities to the amount of VAT to be declared in June for the month of May.
- The French government indicated that tax refunds may be granted to companies facing extreme financial difficulties as a result of the COVID-19 crisis.

The possibility to benefit from such a tax refund, however, is limited to corporate income tax and related taxes (*i.e.*, CFE and company value added contribution (*cotisation sur la valeur ajoutée des entreprises*, or CVAE)). Such a refund will be granted on a case-by-case basis after an examination of the financial position of the taxpayer concerned showing that the sole deferral in the payment of taxes cannot allow the business to overcome its financial difficulties.

To ease all these procedures, the French tax authorities made [forms available for businesses](#) on their website (updated on April 2, 2020, to take into account the exclusion of large companies distributing dividends; see explanations below). Such forms, once filled in, must be sent to the relevant tax office (SIE) (see “*Documentation utile*” at <https://www.impots.gouv.fr/portail/node/9751>).

- The French government declared that the refund of all tax credits that must take place in 2020, net of any portion of such tax credits that may be offset against the corporate income tax due in respect of the 2019 fiscal year, will be accelerated. This relates in particular to VAT, R&D (*crédit d'impôt recherche*) and CICE (*crédit d'impôt pour la compétitivité et l'emploi*) credits. In addition, French businesses may obtain a refund of the excess advance corporate income tax instalments paid in respect of the 2019 fiscal year even though the taxable results in respect of such fiscal year have not yet been declared.

As mentioned above, the French Parliament is currently discussing a provision that would allow companies subject to corporate income tax to request the immediate repayment of their existing carry-back losses receivables as well as repayment of the carry-back losses receivables that will be generated in 2020. Such request might be made until the deadline for filing the declaration of taxable results for companies whose fiscal year will close on December 31, 2020.

- Businesses facing difficulties in the payment of their taxes may directly contact their relevant tax office through the secured message system of their professional space on the French tax authorities website, by email, or by phone.
- Finally, a dedicated committee (*Commission des chefs de services financiers*, or CCSF) may grant, upon request of businesses, additional deferral measures for the payment of taxes and social contributions.
- In practice, the different sanitary measures implemented and the closure of all public places deemed non-essential would lead to the suspension of current tax audits and would prevent the French tax

authorities from starting new tax audits during this period, at least for companies in sectors impacted by the COVID-19 crisis.

- In a [public announcement on April 17, 2020](#), the French government announced, beside an extension of filing deadlines for all businesses (see section *Adjustment of Legal Deadlines* hereinafter), a deferral of the payment of the corporate income tax balance and the CVAE balance for 2019, respectively due on May 15, 2020, and May 5, 2020, to June 30, 2020. A similar postponement of declaration and payment to July 31, 2020, was recently confirmed for companies whose fiscal year closed on March 31, 2020.
- The Second Amended Finance Law for 2020 provides for additional tax measures for businesses:
  - The amounts received by small businesses from the solidarity fund will be excluded from the taxable results of such small businesses and thus exempt from corporate income tax or individual income tax, as the case may be;
  - Lessors, either individuals or companies, may benefit from certain tax incentives in respect of waivers of rents normally due between April 15, 2020, and December 31, 2020, that they would grant to their professional tenants:
    - At the level of such lessors: (i) such waivers of rents are deductible for the determination of their taxable results and (ii) expenses on the real estate properties concerned remain deductible; and
    - At the level of the tenants: such waivers of rents will not impact their carry-forward tax losses. For companies subject to corporate income tax, the amount of the waivers of rents will increase by the same amount the limit of their taxable income against which their carry-forward tax losses may be offset, *i.e.*, normally equal to the sum of €1.0 million and 50% of their taxable income exceeding the amount of €1.0 million.

The application of these measures is subject to the condition that the lessor and the tenant are not related parties in the sense referred to under Article 39-12 of the French tax code (*Code général des impôts*).

These measures apply to fiscal years closed as from April 15, 2020.

- The limit for overtime benefiting from an income tax exemption is increased: the annual limit is set to €7,500 when the remuneration paid in respect of overtime and complementary hours worked between March 16, 2020, and the last day of the urgency sanitary period exceeds the standard annual limit of €5,000 (but this limit may not exceed €5,000 for remunerations paid in respect of hours worked outside this particular period);
- The reduced VAT rate of 5.5% (or lower rate for French overseas territories) temporarily applies until December 31, 2020, to protective masks and suits, hydroalcoholic gels, and other disinfectants;
- In this last respect, the French tax authorities indicated on April 7, 2020, that companies gifting protective goods to medical institutions and public health services are not subject to VAT on such gifts and that VAT incurred by these companies in respect of such gifts remains deductible ([BOI-RES-000068-20200407](#)). On May 13, 2020, the French tax authorities

extended the scope of this particular measure to gifts of hydroalcoholic solutions ([BOI-RES-000068-20200513](#)). They also provided some additional details on the protective masks and hygiene products eligible for this measure and the entry into force of such reduced rate depending upon the nature of the operations concerned (supplies of goods and intra-community acquisition of goods or imports) ([BOI-TVA-LIQ-30-10-55-20200526](#)).

- In a [public announcement on May 29, 2020](#), the French government announced that the deadline for the payment of the corporate income tax installment and CVAE installment of June 15, 2020, will be delayed to June 30, 2020, for companies whose installments are based on their taxable results of the 2019 fiscal year, *i.e.*, on the same date as the date on which these companies have to report their taxable results in respect of such fiscal year.

On June 5, 2020, the [French government also announced](#) that the payment of the CFE, which is normally payable in two annual installments or on a monthly basis upon specific election, will be due for its total amount on December 15, 2020, for businesses in sectors particularly affected by the COVID-19 crisis (*i.e.*, hotels, restaurants, tourism, events, sport, culture, and air transportation).

The draft of the third amended Finance law for 2020 also provides for the possibility for local governments to grant to such businesses (with an annual turnover not exceeding a €150 million threshold) a refund of up to two-thirds of their CFE.

## Social Contributions Measures

### Postponed deadlines for the payment of social contributions (*i.e.*, social security and other contributions payable to the URSSAF)

- The French government announced specific measures for employers whose deadline to pay their social contributions to the URSSAF expires on the 15th of each month (the general deadline for companies that employ fewer than 50 employees), and indicated that the March 15, April 15, and May 15 deadlines could be postponed up to three months (*i.e.*, respectively until June 15, July 15, and August 15, 2020) without any penalty or interest for late payment. The corresponding deferral of payments would concern those that are due by the employers as well as those that the employers levy as part of employee social contributions.
- Similar postponements were announced for employers whose deadline to pay social contributions falls on the 5th of each month. These employers could defer the payment of all or part of the employee and employer social contributions normally due on April 5, and May 5, 2020. These deadlines could be postponed up to three months (*i.e.*, respectively until July 5 and August 5, 2020), without any penalty. Employers could choose not to pay the full amount of such contributions or to pay only part of them. Filing obligations relating to the nominative social declaration (*déclaration sociale nominative*, or DSN) remain applicable and such return should thus be filed no later than April 5 or May 5, 2020, at 11:59 p.m (Paris time), as the case may be.

For companies with at least 5,000 employees, the possibility of postponement is granted upon request, after prior exchanges with the respective collecting authorities (in most cases the URSSAF), and in priority to companies which have not benefited from a State-guaranteed loan.

The payment of the corporate social solidarity contribution (*contribution sociale de solidarité des sociétés* or C3S) due on May 15 (by companies with a turnover exceeding €19 million) cannot be postponed.

- [An additional postponement](#) was lastly announced on June 2, 2020, by the French government regarding social deadlines of June 5, 2020, and June 15, 2020. This last postponement is subject to a prior approval from the URSSAF, which is deemed to give its approval in the absence of any negative response within 48 hours.
- A postponement of the applicable deadlines for the payment of complementary retirement contributions might also be obtained. Employers are invited to contact their complementary retirement institution in this respect.
- Article 18 of the draft third amended Finance law for 2020 provides for additional measures regarding social contributions:
  - An exemption from employer social contributions declared to the URSSAF and corresponding to employment periods running from February 1 to May 31, 2020, for small and medium size enterprises in the most impacted sectors and from February 1 to April 30, 2020, for very small enterprises carrying out an activity that involves the reception of the public and was interrupted due to the COVID-19 pandemic, excluding voluntary closings;
  - A credit equal to 20% of the payroll subject to social contributions declared over the above-mentioned employment periods, which may be used for the payment of all the contributions declared to the URSSAF in 2020;
  - Waiver of debts upon prior demand for businesses employing fewer than 50 employees and which activity was reduced by at least 50% compared with the activity of the same period of the preceding year;
  - Settlement plans for social contributions, which will be proposed by the relevant collecting authorities, without any penalty or interest for late payment.

### **Exclusion of large companies distributing dividends from the benefit of the tax and social contributions measures**

- The French government published a [FAQ document](#) excluding large companies proceeding to dividend distributions or share buy-backs between March 27, 2020 and December 31, 2020 from the benefit of the tax and social measures described above (except for the possibility for large companies to claim for an early repayment of their tax credits).
- Large companies concerned by this exclusion are either independent companies or a group of several entities which, during the last financial year, (i) employed at least 5,000 employees or (ii) had an annual turnover of at least €1.5 billion, in France.
- Regarding groups:
  - This exclusion covers all the French entities and subsidiaries of the group, even if only some of them benefit from the governmental support;
  - Intra-group distributions remain possible when they ultimately have the effect of providing financial support to a French company (in particular to enable the latter to satisfy contractual commitments vis-à-vis creditors);

- Distributions made by foreign entities to French entities of the group do not impact the benefit from the tax and social contributions measures;
  - The concept of group used in this respect may be construed by reference to the definition of group applicable for purposes of the *Contribution sur la valeur ajoutée des entreprises* (CVAE) pursuant to Article 1586 *quater*, I *bis* of the French tax code (*Code général des impôts*) or the French tax consolidation regime pursuant to Article 223 A of same code.
- Dividends concerned by the exclusion are those qualifying as such in the strict sense of this term (*i.e.*, distributions which are decided by the annual shareholders meeting, including when the distribution is realized in kind by means of a distribution of shares), but also all other forms of distributions in cash or in shares (including in particular advance dividend payments and exceptional distributions of reserves). However, distributions of shares which are implemented within the frame of a group reorganization are not covered by this exclusion. In the same way, entities that have a legal obligation to distribute dividends are not affected by this exclusion if the amount of the distribution is limited to the amount they are legally bound to distribute.
  - Share buybacks covered by the exclusion are those that are realized for purposes of a share capital reduction that is not motivated by accounting losses of the issuing company or that are realized for financial management purposes. Notably, share buybacks remain permitted if they are realized for purposes of distributing shares to employees.
  - The exclusion from the benefit of the tax and social contribution measures applies as from March 27, 2020. As a result, companies that have taken the legal decision to pay dividends or have to buy back their own shares pursuant to a legal commitment taken before March 27, 2020, are not affected by this exclusion, regardless of the actual payment date of the dividend or the date on which the buy-back actually takes place.

The criterion used in respect of dividends is the date of the decision of the competent corporate body to proceed with the distribution (*e.g.*, for a *société anonyme* such legal body is in principle the shareholders' meeting and the board of directors as far as dividend distributions and advance payments of dividends are respectively concerned). If this decision was taken by the legal body concerned before March 27, 2020, the company is entitled (or remains entitled) to benefit from the tax and social contributions measures. The fact that the amount of the dividend was announced (*e.g.*, at the time the annual results were published), that the shareholders' meeting was convened with an agenda including the vote of the dividend distribution or that the dividend payment date was announced, are irrelevant if the decision by the competent legal body was not taken prior to March 27, 2020.

Similarly, the criterion retained in respect of a share buy-back is the date on which the buy-back transaction was concluded. As result, share buy-backs taking place after March 27, 2020 pursuant to a commitment taken prior to this date are not concerned by the exclusion. As a matter of example, share buy-backs taking place as a result of liquidity contracts concluded prior to March 27, 2020 and not modified since this last date do not enter within the scope of the exclusion. In the same way, share buy-backs taking place within the frame of an external growth operation are not restricted to the extent they are necessary for the implementation of such operation and are realized pursuant to a commitment taken prior March 27, 2020.

- In practice, the commitment not to proceed to dividend distributions or share buyback must be formalized *vis-à-vis* the French tax authorities as follows:
  - For deferral of tax payments, the commitment must be taken in the related form that must be filed with the French tax authorities to benefit from such deferral;
  - For deferral of social contributions, the company must commit itself by sending a notice (e.g., by means of an email) to the URSSAF. Regarding groups of companies, the commitment must be sent by the parent company for the entire group, even if the postponement is requested by only one or some companies of the group.

In the absence of commitment or in the event of failure to comply with such commitment, the company concerned will be subject to penalties applying in the case of non-payment of taxes and social contributions at a 5% rate and interest for late payment at a 0.2% rate per month.

### Exclusion of companies established in non-cooperative States or jurisdictions

- In a public announcement on April 23, 2020, French finance minister Bruno Le Maire said that it “goes without saying” that companies with headquarters or subsidiaries in tax heavens will not be able to benefit from the financial support of the French State.
- In a [press release on May 4](#), the French government confirmed that requests for the postponement of taxes and social contributions by companies with at least 5,000 employees is subject to the condition, as from the same date, that they do not have their headquarter or one of their subsidiaries established in a non-cooperative State or jurisdiction (for this purpose, one should normally refer to the list of such States and jurisdictions provided for by Article 238-0 A of the French tax code).

### Adjustment of Legal Deadlines

- Because of the crisis, businesses may no longer be in a position to enforce their rights or to avoid sanctions and legal effects attached to the non-performance of certain acts or the non-observance of deadlines to perform legal and tax formalities.
- Accordingly, the French government has been empowered by the Parliament to regulate by means of ordinances the legal, contractual, or jurisdictional deadlines and procedures which, in the present circumstances, cannot be met (Emergency laws to deal with the COVID-19 epidemic: *Loi organique d'urgence pour faire face à l'épidémie de COVID-19*, adopted on March 21, 2020, and *Loi d'urgence pour faire face à l'épidémie de COVID-19*, adopted on March 22, 2020). This moratorium shall have a retroactive effect as of March 12, 2020, though the extension of such deadlines may not exceed three months following the expiration of the containment measures taken in the context of the COVID-19 crisis.
- On March 25, 2020, the French government enacted an ordinance (*Ordonnance n° 2020-306 du 25 mars 2020 relative à la prorogation des délais échus pendant la période d'urgence sanitaire et à l'adaptation des procédures pendant cette même période*) in order to extend statutes of limitations applicable in particular to tax audits. This ordinance was amended by a May 13, 2020, ordinance ([Ordonnance n° 2020-560 du 13 mai 2020 fixant les délais applicables à diverses procédures pendant la période d'urgence sanitaire](#)) and statutes of limitations that normally expire on December 31, 2020, will be extended for a period equal to the period lasting between March 12, 2020, and August 23, 2020. The ordinance also extends for the same period the deadlines under which taxpayers and the French tax authorities can act under tax audits. For tax ruling procedures, the



deadlines are extended for a period equal to the period lasting between March 12, 2020, and June 23, 2020. Additionally, the due dates for debts owed to the French Treasury have been extended for a period expiring two months following June 23, 2020 (*i.e.*, August 23, 2020).

- On April 3, 2020, the French tax authorities published [comments](#) on these measures (BOI-DJC-COVID19 et seq.). Although subject to public comments until April 13, 2020, these comments are binding the French tax authorities since the date of their publication and until their further modification, if any.
- On May 11, 2020, the French tax authorities published [comments](#) pursuant to which they will temporarily accept until July 10, 2020, scanned documents sent by email for purposes of filing formalities to be carried by companies in respect of certain events (*e.g.*, share capital increase, transformation, winding-up).
- Regarding the deadlines for filing tax returns, the deadline for reporting the taxable results of companies that closed their fiscal year on December 31, 2019, was first extended from May 20, 2020, to May 31, 2020. In a [public announcement on April 17, 2020](#), the French government announced an additional extension of this deadline to June 30, 2020, for all businesses. Therefore, the extension of the filing deadline to June 30, 2020, also applies to those companies whose fiscal year closed in January and February 2020.
- More recently, the French tax authorities announced that for independent workers and individual partners of partnerships, the deadline for filing the income tax return regarding their 2019 income would also be postponed to June 30, 2020. The deadline for reporting the taxable results of companies that closed their fiscal year on March 31, 2020, was also extended from June 30, 2020, to July 31, 2020.

## Annex

Below is a table of all the deadlines that the French tax authorities have extended regarding the filing of tax returns and payment of taxes.

| Type of tax return or payment of tax  | Deadline      |
|---|---------------|
| Corporate income tax installment for March 2020 (n° 2571)   | June 15, 2020 |
| Declaration of taxable results for companies whose fiscal year closed between December 31, 2019, and February 29, 2020  | June 30, 2020 |
| Declaration of taxable results ( <i>BIC</i> , <i>BNC</i> , and <i>BA</i> ) of independent workers for fiscal year 2019  |               |
| Declaration of taxable results of <i>sociétés civiles immobilières</i> (n° 2072) and co-ownership unions ( <i>syndics de copropriété</i> ) (n° 2071) for fiscal year 2019 |               |
| Declaration of taxable results and payment of corporate income tax for associations whose fiscal year closed between December 31, 2019, and February 29, 2020             |               |
| All forms related to tax credits  |               |
| Payment of corporate income tax balance (n° 2572) for fiscal years closed between December 31, 2019, and February 29, 2020  |               |
| Declaration of taxable results for companies whose fiscal year closed between March 1, 2020, and March 31, 2020   | July 31, 2020 |
| Payment of the corporate income tax balance (n° 2572) for fiscal years closed on March 31, 2020   | June 30, 2020 |
| Declaration of taxable results and payment of corporate income tax for associations whose fiscal year closed on March 31, 2020  |               |
| Declaration of value added and number of employees (n° 1330-CVAE-SD)  |               |
| Declaration of payment and adjustment of CVAE   | June 30, 2020 |
| <ul style="list-style-type: none"> <li>Credit position</li> <li>Debit position</li> </ul>   |               |
| Provisional statements of wages tax ( <i>Taxe sur les salaires</i> ) (n° 2501-SD):  | June 15, 2020 |
| <ul style="list-style-type: none"> <li>March</li> <li>April</li> </ul>  |               |

|  |                    |
|--|--------------------|
| • May  | August 15, 2020    |
| Tax on commercial premises ( <i>Taxe sur les surfaces commerciales</i> ) | July 15, 2020      |
| Annual declaration to be filed by trustees (n° 2181-TRUST2)              | September 30, 2020 |
| Declaration of transfer pricing policy (n° 2257-SD)                      | December 31, 2020  |

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