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CHARENTES TOURISME

Booster d'activité

Charentes Tourisme

Site d'Angoulême

21, rue d'Iéna CS 82407
16024 ANGOULÊME Cedex

Site de La Rochelle

85, boulevard de la République
17076 LA ROCHELLE Cedex 9

Site de St-Jean-d'Angély

8 Rue Grosse Horloge
17400 Saint-Jean-d'Angély

Ligne pro : 05 46 31 76 38
pro@charentestourisme.com
www.charentestourisme.com



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TIME TO ADAPT

COVID-19

Overview of emergency tax, social and legal measures
taken by the French Government

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Tax measures



Because of the particular context in which we are all operating, this document should be considered as a synthesis to date of the tax, social and legal measures taken by the Government regarding the Covid-19 crisis. We would also like to draw the reader's attention to the evolutionary nature of this report

Tax postponements and/or rebates (1/2)

Any company **in difficulty as a result of the health crisis** may postpone, without penalty, the payments of direct taxes due in March, April, May and June 2020 by 3 months

- ❑ Applicable to all direct taxes (CIT and payroll taxes) but not to VAT, indirect taxes, the withholding of the employees' personal income tax levied by employers or social solidarity contribution (due on 15 May for companies with revenue exceeding €19m in 2019)
 - Payment of June CIT and CVAE (*business contribution on added value*) installments are postponed from 15 June to 30 June (deadline aligned with extended deadline to submit CIT return)
- NEW ❑ TASCOM June payment can be postponed until 15 July on a case by case basis if the company is facing financial difficulties due to the health crisis
- ❑ Upon request to the competent tax center without justification by submitting a simplified form
 - Applications that are "manifestly unfounded" with regard to the activity carried out are likely to be rejected by the tax authorities
 - Applicable also, under certain conditions, to companies which are facing practical difficulties to meet compliance deadlines without facing financial difficulties
- ❑ As a counterpart, "large companies" must commit not to distribute dividends in 2020 (*please refer to [Tax postponements and/or rebates \(2/2\)2020 distributions: Commitment to responsibility required from large groups p. 6](#)*)
- ❑ In addition, "large companies" must commit not to be established in a non-cooperative State or territory (*please refer to [Commitment not to be established in a non-cooperative State or territory required from large groups p. 7](#)*)

- ❑ If March deadlines are already settled (notably for the first CIT installment):

- Possibility to request a reimbursement from the tax center once the debit has been processed on the bank account

Companies facing serious difficulties may request a tax rebate (that could also be extended to late payment interest and penalties)

- ❑ On request by submitting a simplified form to the tax center and upon justification of the impossibility to pay the relevant amounts
- ❑ This possibility can, on a case by case basis, be extended to VAT for taxpayers subject to the simplified VAT regime

Payment of the '*cotisation foncière des entreprises*' (business contribution on property) and the '*taxe foncière*' (property tax)

- ❑ Upon request to the tax center, the monthly payments can be suspended
- ❑ The total amount of unpaid tax will be settled upon final payment, without penalty
- ❑ For the industry sectors which have been the most highly impacted by the health crisis (tourism, hotels, restaurants, culture, events organization, sport, air transportation): automatic postponement of the full amount of the CFE until 15 December 2020 without penalty
 - For small and mid-size companies (with revenue < 150m€): pending discussions before the Parliament to allow partial waiver of the 2020 CFE
- ❑ Possibility to take into account the cap of the CFE based on the added value when applicable for the June installment of the CFE

Tax postponements and/or rebates (2/2)

CIT installments to be paid during FY opened before 20 August 2020 can be reduced on the basis of the estimated CIT charge for the said FY

- Acceptable error margin increased to up to 30% for the second CIT installment
- Subject to the application of a 5% penalty and late payment interest in case of under estimation of the said CIT installments (taking into account the acceptable error margin)
- Companies having benefited from a deferral of the 15 March CIT installment until 15 June are allowed to postpone the 15 June CIT installment but 15 September CIT installment will have to be adapted to include the unpaid 15 June CIT installment

The CCSF ('Commission des chefs des services financiers') can grant companies in financial difficulties payment deferral plans for tax and social security debts (employer's contributions).

This commission can grant companies that encounter financial difficulties payment terms for their tax and social security debts (employer's share) in complete confidentiality

- Who can introduce the request?
 - The debtor itself (trader, craftsman, farmer, individual exercising an independent professional activity and legal entity under private law (companies, associations))
 - The *ad hoc* representative
- Conditions
 - Be up to date with the filing of tax and social security returns and the payment of employee contributions and personal income tax of employees at source
 - Not have been convicted for undeclared work
- Nature and amount of debts
 - All taxes, social security contributions to the exception of the employee social contributions' share and personal income tax of employees at source

- No minimum or maximum amount

Which CCSF is competent?

- In principle, the CCSF of the department of the company's head office or principal establishment

Temporary softening conditions of VAT returns and payments for March and April 2020

- Possibility of paying an 80% down payment or, in the event of total closure or a very sharp drop in activity, a lump-sum payment corresponding to 80%, or even 50% of the VAT due

MDR (DAC6) reporting

- On 3 June, agreement between Member States to allow a postponement of MDR reporting deadlines
 - Measure subject to an unanimous decision of the EU Council and the release of an opinion by the European Parliament (both pending)
 - Exchange of information between Member States will in this case also be postponed until 30 April 2021
- Should the French Government decide to postpone MDR reporting, extended deadlines will be
 - 28 February 2021 for existing arrangements (instead of 31 August 2020)
 - As from 1 January 2021 for arrangements implemented as from 1 July 2020
- Considering the uncertainty around the EU decision process and of the position of the French Government, it is highly recommended to continue to prepare the MDR reporting for the 31 August deadline**

NEW

2020 distributions: Commitment to responsibility required from large groups

What is the content of the commitment to responsibility?

- ❑ Not to distribute dividends in 2020 to (French and non-French) shareholders, including interim dividends and exceptional distributions of reserves
 - Except in case of legal obligation to distribute dividends in 2020 (but only up to the amount which is required to be distributed)
 - Except in case of dividend distributions within the group of companies (*as defined below*) when such dividends are aimed to provide financial comfort to a French company
 - To be noted: dividends received by French companies from their non-French subsidiaries are authorized
- ❑ Not to perform any share buy-back in 2020
 - Except in the context of free shares plan to the benefit of employees
 - Other specific exceptions are available when the share buy-back is linked to an event/obligation existing prior to 27 March 2020

From which companies is this commitment required?

- ❑ Large companies
 - Any company (or group of companies) which, during the last FY, meets one of the following criteria:
 - Having employed at least 5,000 employees or
 - Having realized consolidated revenue exceeding €1.5bn in France
 - The concept of 'group of companies' refers to the definition used for the CVAE or the tax consolidated group (95% control threshold)
 - Not applicable to the foreign subsidiaries of a French group

- Applicable to all French subsidiaries of a group controlled by a foreign parent company

- ❑ When such companies have benefited from:
 - Deferral of (or rebates to) tax payments or social security contributions
 - Accelerated refund of tax credits and tax receivables are not taken into consideration
 - The partial activity mechanism is not taken into consideration (although the French Government asks large companies benefiting from partial unemployment aids to lower as much as possible dividend distributions)
 - A guarantee from the State on loans they have taken on
- ❑ The commitment is required from all French entities of the group when at least one of the members has benefited from one of the above measures even if a concerned group company has not benefited itself from a deferral or rebate of tax or social contribution

The commitment does not apply to:

- ❑ Dividend distributions or share buy-backs decided before 27 March 2020
- ❑ Deferral of tax payments or social security contributions obtained before 27 March 2020 or State guarantee granted before 27 March 2020

The failure to comply with the commitment to responsibility triggers:

- ❑ The immediate reimbursement of the full amount of loan guaranteed by the French State or the tax payments and/or social security contributions benefiting from the rebate or postponement
- ❑ 5% penalty + 0.2% monthly late payment interest

Commitment not to be established in a non-cooperative State or territory required from large groups

In addition to the commitment to responsibility, “large companies” (as defined under such commitment) must commit not to be established in a non-cooperative State or territory when they are requesting a deferral of tax payments or social security contributions or a State-guaranteed loan

- ❑ The commitment is also required from all French entities of the group when at least one of the members has benefited from one of the above measures even if a concerned group company has not benefited itself from a deferral or rebate of tax or social contribution

Non-cooperative States or territories are those referred to under Section 238-0 A of the French Tax Code

- ❑ As at the date the deferral of tax or social payments or State-guaranteed loan has been granted
- ❑ The current list is as follows (last update: 6 January 2020)
 - Anguilla, Bahamas, Fiji, Guam, American Virgin Islands, British Virgin Islands, Oman, Panama, American Samoa, Seychelles, Samoa, Seychelles, Trinidad and Tobago, Vanuatu

What is the content of the commitment?

- ❑ Not to have its registered office or, if different, its actual head office or a subsidiary without economic substance in a non-cooperative State or territory

Which entities are considered as “subsidiary without economic substance”

- ❑ Direct or indirect subsidiaries of French entities only with 50% of capital or voting rights
- ❑ Economic substance is deemed to exist when the entity mainly operates an actual commercial or industrial business locally

Ongoing evaluation of compliance as long as the company benefit from the tax or social payment deferral or the State-guaranteed loan

- ❑ If the company has benefited from such measures between 27 March and 23 April 2020
 - Appreciation as from 23 April 2020
 - Possibility to remediate to the situation within a 3 month-period as from 5 May 2020
 - Failing this, immediate reimbursement of the full amount of State-guaranteed loan or the tax payments and/or social security contributions benefiting from the rebate or postponement + penalties and late payment interest
- ❑ If the company has benefited from such measures as from 23 April 2020
 - Appreciation as at the date when the company benefited from such measures
 - As the case may be, commitment to remediate to the situation within a 3 month-period
 - Failing this, immediate reimbursement of the full amount of State-guaranteed loan or the tax payments and/or social security contributions benefiting from the rebate or postponement + penalties and late payment interest
- ❑ If the company ceases to comply with the commitment
 - Possibility to remediate to the situation within a 3 month-period
 - Failing this, immediate reimbursement of the full amount of State-guaranteed loan or the tax payments and/or social security contributions benefiting from the rebate or postponement + penalties and late payment interest

Accelerated refund of tax credits

Guidance has been given within the tax administration to accelerate the refund of the following tax credits and receivables:

- VAT credits
- Tax credits refundable in 2020 (with no need to wait for the filing of the tax return)
 - CICE (competitiveness and employment tax credit)
 - CIR/CII (R&D tax credit)
 - Tax credit for film production expenses
 - Tax credit for production expenses for audiovisual works
 - Tax credit for foreign film and audiovisual production expenses
 - Tax credit for businesses engaged in live musical or variety shows
 - Tax credit for phonographic production expenses
 - Tax credit for video game makers

Documents to be submitted to the tax center

- Tax credit refund claim (form #2573)
- If not already submitted, tax return justifying the amount of the tax credit (form #2069-RCI or specific return)
- If the CIT return is not available, CIT balance return (form #2572) computing the CIT charge of the year and the refundable tax credit for 2020

NEW

Pending discussions before the Parliament (Amended Finance Bill) to allow immediate refund of FY20 carry-back receivables (FY closed at the latest on 31 December 2020)



Postponement of the filing of tax returns

As a matter of principle, all expired deadlines are extended (Ordinance #2020-306, 25 March 2020)

- ❑ This general principle does in principle not apply to tax returns related to the assessment, the computation of the tax base, the settlement and the collection of taxes, duties and fees but postponement measures have been taken by instructions to the services
- ❑ Possibility to adjust reporting procedures to allow companies to continue to be able to certify that they are up to date with their social and tax obligations (in particular with a view to submit a request before the CCSF)

Extended filing deadline for 2019 CIT returns and 2019 categorical income benefits returns (including tax returns of “Sociétés civiles immobilières” not subject to CIT)

- ❑ Filing deadline extended to 30 June 2020
 - Applicable to fiscal years ending in December 2019, January 2020 and February 2020
 - The deadline is also applicable for all tax credits returns
- ❑ Filing deadline extended to 31 July 2020 for companies having closed a FY on 31 March 2020

Extended filing deadline for election to the tax consolidation regime

- ❑ Filing deadline postponed until 30 June 2020 for fiscal years ending in December, January and February
- ❑ Possibility to submit the election letters as a signed and scanned PDF document emailed to the FTA via the secure messaging system of the company's tax account (rather than the sending by mail with acknowledgment of receipt)

Extended filing deadline for final returns for the CVAE (business contribution on added value) – form #1329 DEF

- ❑ If the company is in a CVAE credit position: the return must be filed on 5 May 2020
- ❑ If the company is in a CVAE debit position: the deadline to submit the return is postponed until 30 June 2020 (payment of the CVAE balance amount must be done by the same date and will then be subject to compliance with the commitment to responsibility, if applicable).

Extended deadline to submit election letter for the CIT regime

- ❑ An extended period may be granted to submit the election form to the CIT regime
 - Upon request by the company
 - Subject to justification that it has not the ability to file the option (premises or accounting firm are closed)
- ❑ If the company is not in such specific situation, it must exercise its option before the end of the third month of the fiscal year in respect of which the company wishes to be subject to CIT for the first time (in case of tax consolidation, this option must be exercised at an early stage)

Extended filing deadline for 2019 individual income tax returns

- ❑ Online filing: 15 days extra days (depending on the residence in France, the deadline is pushed to 4 June 2020 or 11 June 2020)
- ❑ For paper filers, the new deadline is 12 June (one extra month)



Customs measures

Payment facilities and measures concerning the temporary storage of goods under suspension of duties and taxes

- ❑ Possibility to claim for a deferral of payment to the customs authorities
- ❑ Specific measures applicable from 27 March until further notice
 - Goods already cleared through customs but which have not been removed yet from the '*Installations de Stockage Temporaire - IST*' (temporary storage facilities) may remain there until their final release
 - Maximum period of stay for goods placed in an IST (i.e. which have not been cleared through customs) is extended from 90 to 120 days
 - '*Opérateurs Economiques Agréés - OEA*' (qualified economic operator) are authorized to store non-EU goods under suspension of duties, taxes and trade policy measures in place not previously authorized by customs, provided they inform in advance the relevant customs office (i.e. with territorial jurisdiction) and keep compliant dedicated stock records
 - These measures may be extended to non-OEA operators on a case-by-case basis, depending on the specific circumstances, but only if the operator already holds an IST authorization

Duty-free and tax-free importation of sanitary equipment

- ❑ This measure must still be authorized by the European Commission
- ❑ Pending such authorization, the French customs authorities allow, upon request (and subject to specific formalities to be complied with) the entry free of duty of sanitary equipment subject for the importer to commit to pay import duties and taxes if the authorization is not granted by the European Commission
- ❑ Conditions have been listed in a note issued by the customs authorities on 25 March 2020. In particular, the benefit of the exemption is not available to companies that import sanitary equipment for distribution to their staff or for their own activities

Sea grant duties exemption on sanitary equipment

- ❑ Applicable on certain products
- ❑ To sea grant duties to be paid as from 1 April 2020 in territories where the health emergency state is in force

On-going tax audits and procedures

Future tax audits

- ❑ The statute of limitation for the French tax authorities normally expiring on 31 December 2020 is suspended until 23 August 2020
 - Statutes of limitation will then start running again
 - Applicable only for the year with a statute of limitation expiring on 31 December 2020
 - The time limits of statute of limitation expiring after 31 December 2020 are not affected by the suspension
- ❑ Suspension, during the same period, of all time limitations for conducting audit and investigation procedures in tax matters
 - Applicable to both the taxpayers and the tax authorities
 - No audit will be initiated during this period
- ❑ Identical provisions have been ruled for all time limitations applicable to recovery, inspections and tax rulings under the French Customs Code

On-going tax audits

- ❑ No procedural steps will be taken during this period

Tax rulings

- ❑ Suspension of procedural deadlines for tax rulings from 12 March 2020 until 23 June 2020

Reduced VAT rate on masks, protective clothing and personal hygiene products

- **The products benefiting from the 5.5% reduced VAT rate will be listed by a joint order of the Ministry of the Finance and the Ministry of Health**
- **Products include**
 - ❑ masks and protective clothing adapted to prevent the spread of the virus
 - ❑ personal hygiene products adapted to prevent the spread of the virus (e.g. hydro-alcoholic solutions and products performing a similar disinfectant function)
- **Also applicable to EU supplies and acquisitions where the VAT-able event occurs between 1 March 2020 (24 March 2020 for masks and protective clothing) and 31 December 2021**
- **Retroactive application of such measures triggers practical issues such as the refund of excess output VAT during the retroactive period**

Other tax related measures

Tax treatment of rental debt waivers granted by lessors

- For the lessor
 - Rental debt waivers related to real estate properties lease agreements are fully tax deductible
 - Conditions
 - Rental debt waivers granted to professional lessees only (not individuals) who are not considered as related parties with the lessor within the meaning of Section 39-12 of the French Tax Code
 - Rental fees waivers granted between 15 April and 31 December 2020
 - No justification required
 - Applicable to lessors closing their financial year on or after 15 April 2020 and are subject to corporate income tax or personal income tax
- For the lessee
 - Increase of the €1m ceiling available to offset tax losses by the amount of the rent waivers granted between 15 April 2020 and 31 December 2020

Until 10 July 2020, possibility to submit electronically (via email) documents which needs to be registered (for registration duties or transfer tax purposes)

Social measures



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Postponement of deadline for payment of social security contributions

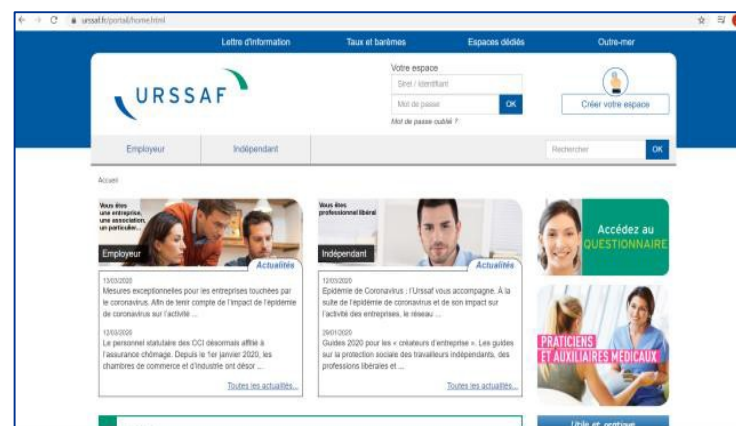
Companies with more than 50 employees

- ❑ URSSAF due date for payment is on the 5th of the month
- ❑ Possibility to defer all or part of the payment of the employee and employer contributions due on 5 April 2020. The same is applicable for the payments due on 5 June 2020
 - Postponement for up to 3 months (more information will be provided at a later date) without penalties
 - Possibility to adjust the amount paid/postponed (nil or part of the contributions)
 - If the payment is not made using the DSN ('*déclaration sociale nominative*'), possibility to either adjust the amount of the bank wire transfer or not to proceed with the bank wire transfer
 - If the employer pays its contributions using the DSN, it must transmit the March 2020 DSN before 12.00 pm on Monday 6 April 2020 and can adjust its SEPA payment within the DSN. For the June 2020 deadline, the deadline to adjust the SEPA is 5 June before 12.00 pm
 - If the employer does not wish to defer all contributions and would prefer to pay the employee contributions only, the employer can spread out payment of the employer's contributions, as is usually the case
 - For companies with 5,000 or more employees, payment deferral of social security contributions is granted, after prior exchange with the authorities, and primarily to those who have not benefited from a State-guaranteed loan
 - As a counterpart, "large companies" must take on a commitment to responsibility not to distribute dividends in 2020 (please refer to [Tax postponements and/or rebates \(2/2\) p. 52020 distributions: Commitment to responsibility required from large groups p. 6](#))

Companies with less than 50 employees

- ❑ URSSAF due date is on 15th of the month
- ❑ Deferral is also possible for the April and June 2020 deadlines

Postponement is also possible for complementary retirement pension contributions



Please refer to [Tax postponements and/or rebates \(2/2\)2020 distributions: Commitment to responsibility required from large groups p. 6](#) and [Commitment not to be established in a non-cooperative State or territory required from large groups p. 7](#)

As from 1 July 2020, social security authorities (URSSAF) will start again auditing companies. It is expected that they will firstly focus on the period prior to the health crisis

Emergency measures relating to paid leave, working hours and rest days (Ordinance #2020-323, 25 March 2020)

The provisions set out below cannot be extended beyond 31 December 2020 and cannot exceed 10 days in total.

Paid leave

- ❑ In-house company agreement or branch level collective bargaining agreement may set out the conditions under which the employer can require the taking of paid leave, or modify the dates of leave already scheduled, with a limit of up to 6 working days, and respecting a notice period of one clear day.
- ❑ This also applies to paid leave days accrued before the start of the period during which they will be taken.
- ❑ The agreement may authorize the employer to divide the leave without the employee's consent.

“RTT” (Reduced Working Time)

- ❑ By way of exception to an agreement or collective agreement which institutes a scheme for reduced working time, the employer may impose or modify the RTT held by the employee, including those of his or her choice, subject to one clear day's notice.

Rest days of staff working under the ‘forfait jour’ system (fixed number of days)

- ❑ The employer may modify or impose, subject to a notice period of one clear day, rest days (or half rest days) to employees working on a fixed-day (*forfait jour*) basis, as an exception to the collective bargaining agreement relevant to the company, establishment or branch.

CET (Time Savings Account)

- ❑ Possibility of imposing the taking of days earned on the time savings account.

Companies operating in sectors essential to the stability of the economy and national security

- ❑ Provisions will cease to be effective on 31 December 2020
- ❑ ‘Essential’ sectors will be specified by decree
- ❑ Working hours: derogation from public policy rules
 - Maximum daily working time increased to 12 hours (vs. 10 hours)
 - Maximum working time for night work increased to 12 hours with compensatory time-off (vs. 8 hours)
 - Daily rest period reduced to 9 hours with the possibility of compensatory time-off for overtime worked (vs. 11 hours)
 - Increase in working hours to 60 hours per week (vs. 48 hours)
 - Increase in weekly working time calculated over a period of 12 consecutive weeks to 48 hours (vs. 44 hours)
 - Increase in weekly night working hours calculated over a period of 12 consecutive weeks to 44 hours (vs. 40 hours)

The employer must inform the CSE (Social and Economic Committee) and the DIRECCTE without delay.

- ❑ Sunday rest
 - Possible to derogate from the Sunday rest rule by allocating the weekly rest in shifts
 - Applicable to companies who provide services necessary for the performance of the principal activity of those in sectors essential to the stability of the economy and national security
 - Provisions applicable in the departments of Moselle, Bas-Rhin and Haut-Rhin.

Upgraded and simplified partial activity scheme (Decree #2020-325, 25 March 2020)

Based on the Decree, an employer can use the partial activity scheme, the hourly rate of which is equal to 70% of each employees' gross hourly wage, capped at 4.5 times the hourly rate of the minimum wage (SMIC)

- ❑ This hourly rate cannot be less than 8.03 euros.
- ❑ Employee will receive 100% compensation in case FNE training is provided or if the compensation is voluntarily increased by the employer.
- ❑ In any case, system capped at 1,607 hours per year per employee, regardless of the professional sector
- ❑ Decree applicable to claims made or renewed as from 26 March 2020 in respect of employees in partial activity scheme positions as from 1 March 2020.
 - Demand to use the partial activity scheme and submission of the file to be made directly online via a dedicated website (<https://activitepartielle.emploi.gouv.fr/aparts/>)
 - Due to difficulties for employers to access the website, request can be sent up to 30 days after the placement of employees in the partial activity scheme (provided that the request is justified on the grounds of exceptional circumstances)
 - Applicable regulation states that the administrative authority normally has a maximum 15 day-period to process the request
 - Time for a response reduced to 48h. If the administrative authority does not respond within this period, the request is considered as having been accepted.
- ❑ Employer must first consult the employee representatives (CSE or staff delegates)
 - Opinion from the CSE or the staff delegates may be obtained after the partial activity scheme request and shared with the authorities up to 2 months after the date of the request.
 - In the absence of an employee representative body, companies must directly inform their employees about the implementation of a partial activity scheme.

Situations eligible to partial activity scheme

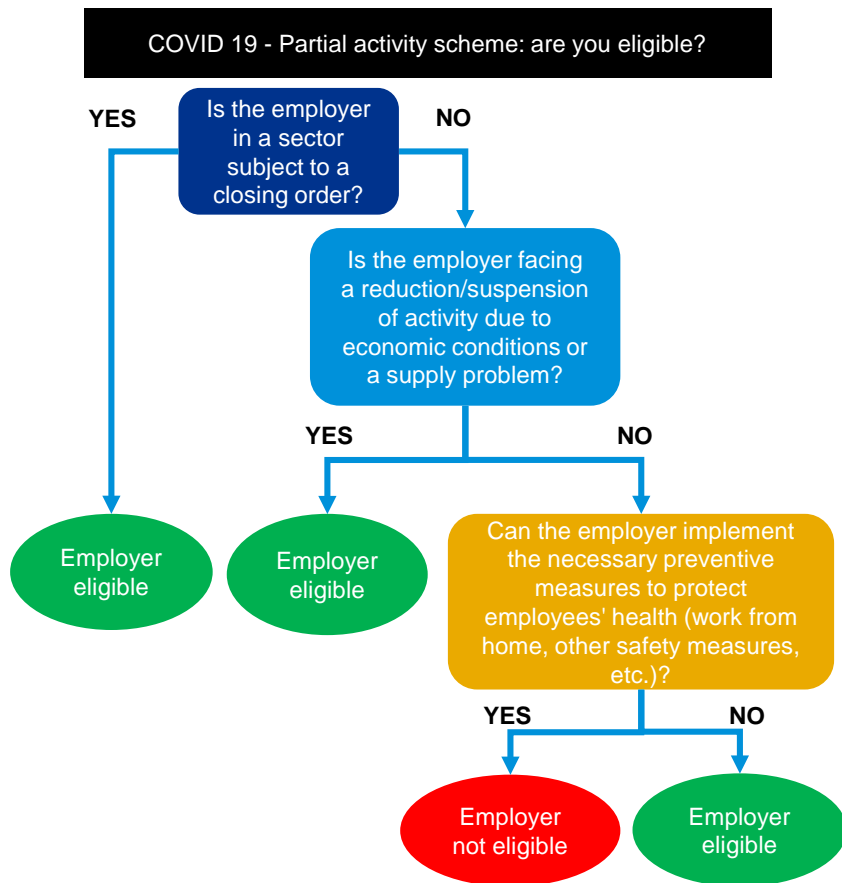
- ❑ Administrative closure of an establishment
- ❑ Prohibition by administrative decision of public demonstrations
- ❑ (Massive) absence of employees who are critical to business activity
- ❑ Temporary interruption of non-essential activities
- ❑ Suspension of public transport by administrative decision
- ❑ Decline in activity linked to the epidemic. Supply difficulties, deterioration of sensitive services, cancellation of orders, etc., are all reasons for using the partial activity system

Important: Decree #2020-325 opens the benefit of the partial activity scheme to employees on contracts fixed by hours ('forfait en heures') or days ('forfait en jours') per year, including when there is no total closure of the business.

Requests will likely be audited

- ❑ No request will be authorized if the company wishes to close preventively
- ❑ In the event of renewal of the request, the company must take commitments related to the employees (refer to the non-exhaustive list in section R. 5122-9 of French Labor Code)
- ❑ Unduly requests will be subject to the following (cumulative) penalties:
 - Full repayment of the amounts received by the company
 - No possibility to benefit from public aids related to employment or professional training for a period of maximum 5 years
 - 2 year of jail sentence and €30k fine

Upgraded and simplified partial activity scheme (Decree #2020-325, 25 March 2020) (cont.)



Translation of chart prepared by French Ministry of Labor

FNE¹ Training

- ❑ In the event of prolonged under-activity or total cessation of activity, companies can choose to provide their employees with FNE training in order to provide the employees useful skills for when they resume activity.
- ❑ FNE training is formalized by an agreement between the French State ("DIRECCTE") and the company.
- ❑ Support from the French State on the financing up to 50% of the eligible costs or even 70% in certain conditions
- ❑ Key conditions to be met
 - Companies (or groups of employers) with less than 250 employees
 - Employees exposed to the loss of their job or with low qualifications compared to the labor market in their employment area (note that managers are not excluded from this program)
 - To be included in the list of training which may be part of an FNE agreement which includes namely the acquisition of a qualification and skills assessment
 - Obligations of the company to continue to employ the employees trained for a duration at least equal to the period of the agreement + 6 months (except in certain situations)
 - Prior request to the DIRECCTE and communication of the request to the Work Council or to staff delegates
 - Entry into an agreement for a period of up to 18 months

Upgraded and simplified partial activity scheme (Ordinance #2023-346, 27 March 2020 and Decree #2020-435, 16 April 2020)

The Ordinance will remain in force until a date to be fixed by decree, but no later than 31 December 2020. The Ordinance clarifies certain details about and extends the scope of the partial activity scheme

Protected employees ('salariés protégés')

- Partial activity scheme compulsory for any protected employee, irrespective of the employer's wishes, if it affects all the employees of the business, establishment, office or workshop to which the person concerned is assigned or attached

Employees working a fixed number of days ('forfait jour') and employees not subject to statutory or agreed working hours

- Number of hours taken into account for the partial activity compensation and the partial activity allowance determined by converting a number of days or half days into hours

Employees of foreign companies with no fixed place of business in France

- Partial activity scheme applicable to foreign companies with no place of business in France and which employ at least one employee working in the country who is covered by the French social security and unemployment insurance system

Part-time employees

- Principle: the hourly rate under the partial activity scheme paid to part-time employees must not be less than the hourly rate of the SMIC
- Exception: if the part-time employee's hourly rate is less than the SMIC hourly rate, then the hourly rate paid to the employee under the partial activity scheme is equal to their actual hourly rate

Apprenticeship and professional training contracts

- Partial hourly working allowance equal to the percentage of the SMIC applicable to them.

Employees in training

- Terms of compensation for employees in training, during a period of partial activity, aligned with the ordinary terms of compensation for employees during a period of partial activity
- Hourly allowance paid to be equal to 80% of net pay, the terms and conditions of which are to be determined by decree

Employees subject to the equivalence regime (professions and jobs involving period of inactivity)

- For the calculation of the compensation and the partial allowance, the paid equivalent hours are taken into account
- The duration considered to be equivalent is used instead of the legal working hours.

Confirmation that the benefit of partial activity scheme is available for certain specific employees/business (ski resort staff, employee of public enterprises, employees working at the home of their private employer)

Partial activity allowance is exempted from social security contributions (including in case of 100% allowance per Government announcement to be officially confirmed) but subject to CSG and CRDS

- Measures to simplify the calculation of the CSG



Other social measures

Specific measures for the industry sectors which have been the most highly impacted by the health crisis (tourism, hotels, restaurants, culture, events organization, sport, air transportation) are pending (discussions before the Parliament)

Additional allowance to social security daily allowances (Ordinance #2020-322, 25 March 2020, Ordinance #2020-420, 15 April 2020 and Decree #2020-434, 16 April 2020)

- ❑ Measure applicable until 31 August 2020
- ❑ Extended scope in order to ensure equal treatment to:
 - All employees, irrespective of seniority
 - Employees who have been required to stop working as a result of the covid-19 epidemic in particular staff who are subject to isolation, eviction or home confinement measures, as well as parents of a child under the age of 16 subject to such a measure, and who, for one of these reasons, is unable to continue working
 - Employees who are absent from work due to incapacity resulting from illness or accident

Consequently, restriction are lifted for employees working at home, seasonal employees, casual employees and temporary workers

Mandatory and voluntary profit-sharing schemes (Ordinance #2020-322, 25 March 2020 and Decree #2020-434, 16 April 2020)

- ❑ Notwithstanding the provisions of the French Labor Code governing the payment of sums due in respect of mandatory and voluntary profit-sharing schemes and the contractual stipulations applicable in the company, the deadline for payment to beneficiaries or allocation to an employee savings plan or a blocked current account, of sums allocated in 2020 under a mandatory and voluntary profit-sharing scheme, is postponed from 1 June 2020 to 31 December 2020

Extension of validity period of residence permits (Ordinance #2020-328, 25 March 2020)

- ❑ Securitization of the residence status of foreign nationals holding a residence permit due to expire in the coming days or weeks, in order to avoid the breach of the permit
 - Applicable to residence permits which expire between 16 March and 15 May 2020
 - It allows foreign nationals to remain legally in the French territory for up to 90 days after the expiry date of their residence permit, while their application for permit renewal is under examination by the authorities

❑ These provisions enter into force immediately

Replacement income (Ordinance #2020-324, 25 March 2020)

- ❑ Exceptional extension of the payment of allowances to jobseekers whose allowance benefits expire between 12 March 2020 and a date to-be fixed by decree (at the latest on 31 July 2020)
- ❑ A decree will set out the terms of this extension, including the ending date of this measure.
- ❑ Mechanism likely not to be extended beyond 31 July 2020

Employee representatives (Ordinance #2020-389, 1 April 2020, Decree #2020-419, 10 April 2020 and Decree #2020-508 of 2 May 2020)

- ❑ Election processes in progress on 2 April 2020 are put on hold with retroactive effect on 12 March 2020 until 31 August 2020
- ❑ Staff representatives mandates will be extended until the announcement of the results of the next election.
- ❑ Possibility to hold meetings by audiovisual or telephone conference or, if accepted collectively, by instant messaging systems.
- ❑ Time limits to inform and consult the works council about decisions made by the employer aimed at addressing the economic, financial and social consequences of the spread of the Covid-19 epidemic have been shorten for time limits starting to run between 3 May 2020 and 23 August 2020.

Other social measures (cont.)

■ **Exceptional purchasing power bonus ('*prime exceptionnelle de pouvoir d'achat*'): modification of the payment terms and conditions (Ordinance #2020-385, 1 April 2020)**

- ❑ Extended deadline for the payment of the bonus from 30 June to 31 August 2020
- ❑ Applicable to all companies
- ❑ Exempted from social security contributions and personal income tax until €1,000
 - In case of voluntary profit sharing agreement, exemption applicable up to an amount of €2,000
 - Possibility to conclude a voluntary profit sharing plan with specific duration extended until 31 August 2020
- ❑ Employees having worked during the Covid-19 crisis: possibility to allocate the bonus based on the working conditions during the health emergency state

■ **Professional training (Ordinance #2020-387, 1 April 2020 and Decree #2020-435, 16 April 2020)**

- ❑ Extended deadline to comply with professional training obligations until 31 December 2020
- ❑ Term of apprenticeship contracts and professional training agreement extended due to the impossibility for the closing of the apprenticeship and professional training bodies

■ **Overtime hours**

- ❑ When realized during the health crisis, overtime hours will be exempted from income tax and social security contributions up to an increased amount of €7,500 (instead of €5,000)

■ **Exceptional bonus paid in 2020 to civil servants**

- ❑ Will be exempted from income tax and social security contributions

■ **Liability of the legal representative of the companies vis-à-vis the employees (Law #2020-546, 11 May 2020)**

- ❑ Specific reference to the health crisis has been introduced in law but does not result in a waiver or as a mitigating factor of the safety obligations of the employer vis-à-vis the employees

Legal measures



Because of the particular context in which we are all operating, this document should be considered as a synthesis to date of the tax, social and legal measures taken by the Government regarding the Covid-19 crisis. We would also like to draw the reader's attention to the evolutionary nature of this report

Measures relating to the courts and administrative proceedings

Reduction of activity & activation of continuity plans

- ❑ Courts will be closed except for the handling of “essential” disputes, namely related to criminal and family matters
- ❑ Reception services for the public will be closed
- ❑ Apart from “essential” disputes, all hearings will be postponed. Arrangements will be made to ensure that litigants and lawyers are informed of these postponements (signage, website or phone message)
- ❑ Since 11 May 2020, courts have started to operate again but each of them according to its own organization process . It should be noted that some of them have decided to hold hearings in private according to Ordinance #2020-304, 25 March 2020

Extension of procedural time limits (Ordinance #2020-306, 25 March 2020 as amended by Ordinance #2020-427, 15 April 2020 and Ordinance #2020-560, 13 May 2020)

- ❑ Time limits applicable to trade and civil proceedings that expired on 12 March 2020 will recommence on 24 June 2020.
 - Any action to be carried out during this period is postponed (not cancelled), and must take place within the applicable timing as from 24 June 2020 without exceeding a 2 month-period as from this date.
- ❑ Payment of contractual obligations must always in principle occur on the date stipulated in the contract. It may however be possible to defer a payment, by requesting the obligation to be suspended because it is impossible to comply, or by invoking force majeure.
- ❑ Time limits are extended for the duration laid down by law, within a limit of 2 months from 24 June 2020: this applies in particular to all acts, legal actions, appeals, formalities, registrations, declarations, notifications, or publications prescribed by law or regulation, as well as payments with a view to the acquisition or retention of a right.

- ❑ The implementation of periodic penalty payments, penalty clauses, termination clauses and forfeiture clauses is modified.

Time limits applicable to priority preliminary rulings on constitutionality (*‘questions prioritaires de constitutionnalité’*) suspended until 30 June 2020 (Organic Law #2020-365, 30 March 2020)

Measures taken by the Tribunal de commerce de Paris

- ❑ All substantive hearings of the Tribunal de commerce de Paris are cancelled up to and including 29 May 2020
 - ❑ In cases of extreme urgency, interim hearings may be held. To this end, a judge will be able to receive the parties to deal with writ requiring appearance. To make an appointment with a judge, please use this address: webmaster@grefte-tc-paris.fr
 - ❑ Declarations of insolvency can be made online: www.tribunaldigital.fr
 - ❑ With regard to pre-insolvency proceedings, possibility to refer the matter to a judge at the following address: prevention@grefte-tc-paris.fr
 - ❑ In case of emergency,
 - Hearings related to divesting plans may be held
 - Possibility to enter into ad hoc mediation or conciliation proceedings upon appointment to be taken online (webmaster@grefte-tc-paris.fr)
- ### Administrative proceedings related to labor law matters (Decree #2020-471, 24 April 2020)
- ❑ Time limits which were suspended according to Ordinance #2020-306, 25 March 2020 will start to run as from 26 April 2020 for certain acts, proceedings or obligations specifically listed in Decree #2020-471, 24 April 2020

Support in handling a conflict with a client or supplier by the Business Ombudsman

The '*Médiateur des entreprises*' (Business Ombudsman) is called upon to help businesses experiencing economic difficulties due to disputes with clients or suppliers which are caused by the consequences of the health crisis

Cases which can be referred to the Business Ombudsman

- Any dispute relating to the execution of a private contract, including a tacit contract, or a public procurement contract
- Unbalanced contract terms, failure to comply with payment terms, abrupt breach of contract, misappropriation of intellectual property
- Any business or public entity, regardless of its size or industrial sector

Specific form to be filed to request the assistance of the *Médiateur des entreprises*

To be noted: a Crisis Committee on Payment Terms ('*Comité de crise sur les délais de paiement*') has been set up jointly by the Ministry of Finance and the French Central Bank to identify and assess the impacts of the Covid-19 crisis on payment terms

- Companies are invited to provide the Committee with information on payment practice of their key clients

Holding of general assembly meetings, boards of directors and supervisory boards (Ordinance #2020-321, 25 March 2020)

Applicable to all legal persons and entities without legal personality under private law

Applicable to general assembly meetings that cannot be held in person for COVID-19-related health reasons.

Provisions apply retroactively from 12 March until 31 July 2020. Unless this period is extended at a later day by decree of the Council of State (however it cannot be extended beyond 30 November 2020).

The Ordinance specifies that a decree shall specify, as necessary, the conditions for the application of this order

General assembly meetings

- Adjustment of rules in respect of convening and information
 - Listed companies: a general assembly meeting is not invalid merely because it cannot be convened by postal notice due to circumstances beyond the company's control
 - All entities: a member may request that a document or other information is provided by email prior to the holding of a meeting provided that the member supplies its email address for receipt of the document or information.
 - Specific situation: formalities for convening sent before the Ordinance
 - Information of the members of the general assembly by any means that ensures they are effectively informed, at least three working days before the date of the meeting
 - No need to renew the convening formalities - Specific conditions for listed companies
- Adjustment of the rules in respect of participation and proceedings
 - The body responsible for convening a general assembly meeting may decide that the meeting will be held without the members and other persons entitled to attend, being physically present, but instead by telephone or by audiovisual conference.

- Members to be informed by any means that ensures they are effectively informed of the date and time of the general assembly meeting as well as the conditions under which they will be able to exercise the rights attached to their membership or the right to attend.

- Calculation of quorum and majorities: despite any provision of the articles of association or founding documentation, it may be decided that the members of the general assembly meeting who participate by means of telephone or audiovisual conference (allowing them to be identified) are taken to be present.

- The technology must allow at least the transmission of the voice of the participants and satisfy technical characteristics permitting the continuous and simultaneous transmission of the proceedings.
- Specific conditions for public limited companies and meetings of bondholders
- Despite any provision of the articles of association or founding documentation, possibility of written consultation where permitted by law.

- These provisions apply irrespective of the subject matter of the decision on which the general assembly meeting is called upon to rule.

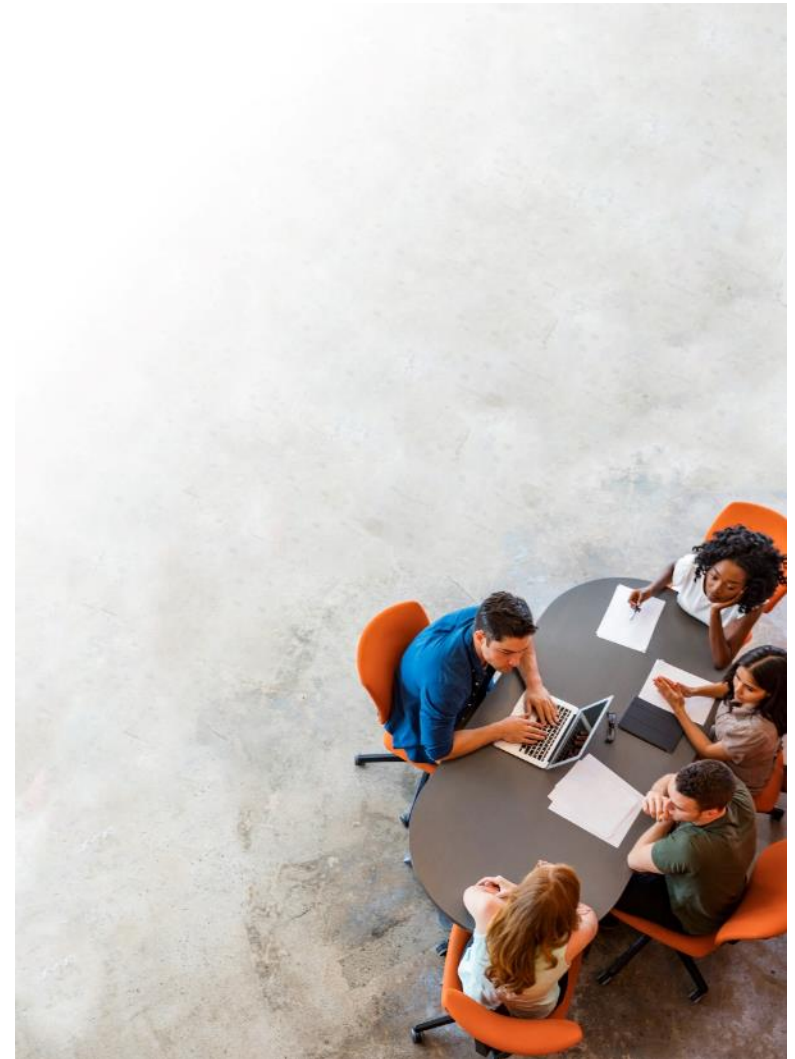
Professional administrative, supervisory and management bodies

- Despite any provision of the articles of association or procedural rules, members of these bodies be taken to be present at the meetings of these bodies if they participate by means of telephone or by audiovisual conference such that they can be identified and their effective participation is guaranteed.

Holding of general assembly meetings, boards of directors and supervisory boards (Ordinance #2020-321, 25 March 2020) (cont.)

Professional administrative, supervisory and management bodies (cont.)

- ❑ The technology must allow at least the transmission of the voice of the participants and satisfy technical characteristics permitting the continuous and simultaneous transmission of the proceedings
- ❑ Despite any provision of the articles of association or procedural rules, the decisions of these bodies may be taken through written consultation of members under conditions which ensure the collegiality of the proceedings
- ❑ These provisions apply irrespective of the subject matter of the decision on which the body is called upon to rule.



Measures relating to the closing and approval of accounts (Ordinance #2020-318, 25 March 2020)

Applicable to all legal persons and entities without legal personality under private law.

■ **Extension by 3 months of the time limit for the management board to present to the supervisory board the annual financial statements and, if applicable, the consolidated financial statements, the related management report and the report referred to in Article L. 225-68 of the French Commercial Code**

- ❑ Extension applicable to entities whose FY ends between 31 December 2019 and the ending date of a one month-period as from the end of the state of health emergency
- ❑ Exception: This extension does not apply to entities that have appointed a statutory auditor if the latter issued its report on the accounts before 12 March 2020

■ **Extension by 3 months of the time limits imposed by the legal provisions or the articles of association of an entity to approve the accounts and the documents attached to them, where applicable, or to convene the general assembly meeting needed to approve them**

- ❑ Exception: This extension does not apply to entities that have appointed a statutory auditor if the latter issued its report on the accounts before 12 March.2020
- ❑ Extension applicable to entities whose FY ends between 30 September 2019 and the ending date of a one month-period as from the end of the state of health emergency

■ **Extension by 3 months of the deadline imposed on private law entities benefiting from a public subsidy) to produce the financial report mentioned in the 6th paragraph of Section 10 of Law # 2000-321 of 12 April 2000**

- ❑ Provision applicable to financial records relating to financial years ending between 30 September 2019 and the ending date of a one month-period as from the end of the state of health emergency

■ **Extension by 2 months, counted from the end of the FY, of the time limit given to the liquidator to prepare the annual accounts and the related report**

- ❑ Extension applicable to entities whose FY ends between 31 December 2019 and the ending date of a one month-period as from the end of the state of health emergency.

Measures related to restructuring and insolvency procedures (Ordinance #2020-341, 27 March 2020 as amended by Ordinance # 2020-596, 20 May 2020)

Ordinance applicable to ongoing procedures.

Declaration of insolvency

- ❑ During the whole period of health emergency state until 23 August 2020 is assessed on the basis of the financial situation of the debtor at the date of 12 March 2020
- ❑ Officers of the bankruptcy proceedings can ask for the declaration to be postponed

Requests of payment of wages before the AGS (public body guarantying the payment of wages to employees of insolvent companies)

- ❑ Statements of wages to be paid submitted in a 10-day or a 3-month period depending on the nature of the amounts to be paid
- ❑ Possibility to manage information process to staff representatives after submission of the request Conciliation procedure

Conciliation procedure

- ❑ Can be extended for a period up to 5 months after the end of the health emergency state

Safeguard plan and restructuring plans

- ❑ Until 23 August 2020,
 - Duration can be extended by a 5 month-period at the request of the judge (extended period of up to one year at the request of the public prosecutor)
 - Upon request of the parties, possibility for the President of the Commercial court to postpone all the deadlines applicable to the various bodies to the procedures by a 5 month-period
- ❑ Within a 6-month period as from 23 August, at the request of the judge or the public prosecutor, duration of the plans can be extended by the Commercial Court by a period up to one year.

- ❑ Until 31 December 2020, safeguard plan and restructuring plans can be extended by a period up to 2 years at the request of the judge or the public prosecutor resulting in a duration up to 12 years in total

Procedural deadlines are amended to facilitate restructuring and insolvency procedures

- ❑ Flexibility has also been introduced until 31 December 2020 to facilitate restructuring plans which include disposal of assets/business with a view to reduce the dismissal of employees

Other measures

Recognition of the coronavirus by the French State as an event of force majeure for its public procurement agreements

For all State public procurement contracts, penalties for delays will not be applied

Restructuring plan for debts with the support of the State and Banque de France (French Central Bank)

The Commission of chief financial services (Commission des chefs de services financiers or CCSF) can grant companies payment deadlines to pay their tax and social security debts (employer's share) in complete confidentiality

Bpifrance implements exceptional measures to support affected Very Small Enterprises ("VSEs") and Small and Medium Size Enterprises ("SMEs")

- ❑ Guarantee from Bpifrance for up to 90% of bank loans amounts with a term of 3 to 7 years and up to 90% of bank overdrafts if confirmed by the bank for 12 to 18 months
- ❑ Extension without fees of usual guarantees for investment loans to accompany the adjustments made by the banks
- ❑ Adjustments of medium and long term loans granted by Bpifrance to its clients, upon request and depending on the context
- ❑ Creation of "Atout Loan"
 - Eligible companies: VSEs, SMEs and Intermediate Sized Enterprises ("ETIs") going through difficulties related to coronavirus with minimum 12 months of activity
 - All sectors of activity except civil real estate companies (SCI), financial intermediation firms, agricultural business entities with a turnover of less than €750k or under bankruptcy proceedings

- Loan to finance a one-time cash requirement or an exceptional increase in working capital requirement linked to the economic situation
- Loan amount from €50k to €5m for SMEs to €30m for ETIs
- No guarantee on the assets of the company or its director
- 3 to 5 years duration with deferred capital depreciation for up to 12 months (quarterly maturity)
- Fixed or variable interest rate
- ❑ As a counterpart, "big companies" must take on a commitment to responsibility not to distribute dividends in 2020 (*please refer to [Tax postponements and/or rebates \(2/2\) p. 5](#)*)

Measures related to exportation

- ❑ Extended security and pre-financing conditions granted by Bpifrance

Specific measures to the Tourism industry (Ordinance #2020-315, 25 March 2020)

- ❑ Measures applicable to travel contracts and travel services contracts and in particular accommodation, car rental and any other tourist service that is not an integral part of a travel offer.
- ❑ Measures not applicable to sale of transport tickets governed by international and European Union law
- ❑ Full refund or credit note (refundable after a 18-month period under specific conditions) of contracts which have not been executed
- ❑ Announcements by the EU Commission on 13 May 2020 may have an impact on the measures taken by the French Government namely on the credit note system

Other measures (cont.)

Specific measures to public contracts (Ordinance #2020-319, 25 March 2020)

- ❑ Applicable to public contracts in force or concluded between 12 March 2020 and the end of a 2-month period after the end of the health crisis
- ❑ Contracts terminated during this period can be extended if competitive proceedings cannot be organized
- ❑ Specific measures in case of difficulties to execute the contract
- ❑ Indirect impact of Ordinance #2020-560, 13 May 2020 relating to deadlines computation

Creation of a solidarity fund (Ordinance #2020-317, 25 March 2020 and Decree #2020-371, 30 March 2020 as amended by Decree #2020-394, 2 April 2020 and Decree #2020-433, 15 April 2020)

Solidarity fund for micro-businesses particularly affected by the economic, financial and social consequences of the epidemic, and the measures taken to limit its spread

- ❑ The fund has a 3 month term, extendable by decree for a maximum of 3 months
- ❑ State-funded
 - May also be funded on a voluntary basis by the regions, the overseas collectivities and New Caledonia and any other territorial collectivity or public establishment for inter-communal cooperation with its own tax system
- ❑ Available for micro-business under restrictive conditions such as
 - Maximum 10 employees
 - Revenue (excl. VAT) not exceeding €1m
 - Not subject to an insolvency proceeding as at 1 March 2020

- ❑ Allowance of 1,500€ to be requested before 30 April 2020 (may be increased, subject to specific conditions, by 5,000€ in case of employees)

- ❑ Allowance exempted from income tax, corporate income tax and social security contributions

Payment of rental, water, gas and electricity bills for commercial premises for micro-businesses (Ordinance #2020-316, 25 March 2020)

- ❑ Applicable to micro-businesses whose activity is affected by the Covid-19 crisis
 - Micro-business (within the meaning of Decree #2008-1354, 18 December 2008) which employ less than 10 people and have annual revenue or balance sheet value not exceeding €2m
 - Natural and legal persons governed by private law engaged in an economic activity who are likely to benefit from the solidarity fund provided for by the Ordinance #2020-317) or, subject to specific conditions, who continue to operate their business in the framework of pre-insolvency or insolvency proceedings
- ❑ A decree will set up the eligibility criteria for these provisions and, in particular, the threshold for loss of turnover due to the health crisis

State-granted loans (Amended Finance Bill for 2020, Law #2020-473, 25 April 2020)

- ❑ Possibility for certain companies, which will be defined by forthcoming decree, to benefit from State-granted loans when they have not benefited from State-guaranteed loans

Contacts

Mustapha Oussedrat

Tax Senior Partner

moussedrat@kpmgavocats.fr

Christophe Bergerot

Partner, Head of tax

christophebergerot@kpmgavocats.fr

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