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FRANCE COVID-19 TAX MEASURES AS OF 18 MARCH 2020

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In response to the COVID-19 Coronavirus epidemic, various tax, banking, rent and public procurement measures have been put in place by the French Government to support struggling businesses.

Of note with regard to social security contributions, the URSSAF has permitted businesses whose due date is on the fifteenth of the month to postpone all or part of their payment from March 15, 2020 up to three months without any penalty.

Below is a summary of these measures, certain of which require further details from the authorities:

I. Measures taken by the General Direction of the Public Finances (« DGFIP »)

1. Postponement of all direct taxes for struggling businesses

Businesses which face difficulty paying taxes can apply to postpone all payments of direct taxes.

The postponement of taxes is granted with no penalties for a period of **three months** upon application, **with no preconditions**.

For payments due in March, businesses may cancel their direct debits. Otherwise, for payments already made, businesses may request a reimbursement from the tax revenue (Service des impôts des entreprises (« **SIE** »).

Further, monthly payments for the licence business tax ("**CFE**") and the real estate tax ("**Taxe Foncière**"), can be suspended by using the online system impôt.gouv.fr or by directly contacting the relevant tax revenue. The remaining balance will be levied at the same time as the final payment without penalty.

Other taxes : all business taxes, including advance payments of corporation tax (in particular those due on 16 March 2020), the licence business tax ("**CFE**" and "**CVAE**"), and payments linked to employee wages are also postponed. Exceptions from postponement are VAT and assimilated taxes, the repayment of the tax at source (« **PAS** ») done by the revenue as well as tax on insurance agreements.

Procedure : An application can be sent by e-mail to the business' relevant tax revenue (SIE).

2. Application for rebates of direct taxes, late interest or penalties

Rebates of direct taxes may be granted in cases of **serious difficulties** where deferring payments of taxes would not be sufficient.

Such rebates will only be granted where evidence of serious difficulty is provided. Each business should therefore specify in its application:

- its drop in turnover;
- outstanding debts;

- its cash position;
- any other relevant points.

Relevant taxes: all direct taxes, especially corporation tax and licence business tax (CFE and CVAE).

Procedure : An application can be sent by e-mail to the business' relevant tax revenue (SIE).

Unlike deferred taxes, applications for tax rebates are not granted automatically, but only on consideration of the particular circumstances.

3. Invoices awaiting payment from public services

In the event of invoices awaiting payment from government departments or local authorities, businesses notify the tax revenue (SIE).

4. Establishment of a rescue fund for small businesses and the self-employed

A rescue fund has been set up to support **small businesses and the self-employed**, who upon application will receive a lump sum payment of 1,500 euros by the DGFIP.

Further, for businesses with at least one employee and which face serious difficulties, financial support will be granted on a case by case basis.

Eligible businesses: those with an annual turnover less than €1 million and which :

- have been forced to close (restaurants, non-food businesses, tourism); or
- have a reduced turnover of more than 70% while compared to their turnover in March 2019.

Procedure : a simple request to the business' tax revenue (SIE).

II. Bank loan guarantees

1. Measures for restructuring bank loans

Companies may receive support from the government and the Banque de France to restructure their bank loans. It is expected the banks will be willing to negotiate in respect of unsecured loans.

2. Measures for businesses' cash liquidity

The State and the Banque de France will guarantee all new bank loans up to 300 billion euros that help businesses maintain their cash liquidity.

III. Measures regarding the suspension of rents

The French President announced on 16 March 2020 that water, gas, electricity and rent bills for small businesses would be postponed.

The details of this measure have not been elaborated upon. However, only **small businesses**, **and therefore not individuals**, are eligible. It appears that the suspension of rents is not automatic, but would be upon tenants' request to their landlord.

The definition of small enterprises has not yet been made, but it is expected that this will concern small businesses with less than 10 employees and a total balance sheet or an annual turnover of less than 2 M€.

IV. Force majeure

State and local authorities recognize the Covid-19 as a case of force majeure for their public procurement. Consequently, for all state and local authorities' contracts, late payment penalties will not be applied. It is interesting to note that on its website, the FFB[1] recommends the application of the force majeure for all markets (public, private with professionals or consumers)[2]. In addition, the President of the FFB, Jacques Chanut, called for the protection of businesses during the health crisis[3].

The consequences of recognizing this force majeure as regards contract law and more particularly construction sites or the impact on commercial leases requires further analysis on a case by case basis, depending on the circumstances. Indeed, the creditor of an unsatisfied obligation could have an interest in arguing for its non-performance while the debtor could invoke the current circumstances .

Regarding construction contracts (Article 1594-CG of the French tax code) or resale (Article 1115 of the French tax code) which could not be satisfied due to Covid-19, the recognition of this force majeure could facilitate, according to circumstances, an extension of the deadline to be respected. However, it should be noted that in the case of an epidemic, force majeure is rarely accepted by case law, since there must also be a causal link between a force majeure and non-performance of the commitment.

V. Measures regarding partial unemployment (*chômage partiel*)

Following a speech on 16 March 2020, The Minister of Labour will be in charge of the partial unemployment regime for businesses:

Eligible companies will benefit from the partial unemployment regime which will cover 100% of the compensation paid to employees up to 4.5 times the minimum wage (a decree to this effect should be issued soon).

Eligible businesses : Businesses with a partial or total decrease of activity, notably due to the binding closure requirement (restaurants, non-food businesses…).

Procedure : Eligible businesses must activate « *activité partielle* » (partial activity) on the site www.activitepartielle.emploi.gouv.fr. They have thirty days to file their request, with retrospective effect.

1. The French federation of banks

2. v. https://www.ffbatiment.fr/federation-francaise-du-batiment/laffb/actualites/faire-face-aux-chantiers-arretes-et-aux-chantiers-qui-continuent.html

3. See guide of FFB on the management of the Covid-19 regarding construction sites and notably p.19 on private markets : https://www.ffbatiment.fr/Files/pub/Fede_N00/NAT_ACTUALITES_3218/48363381f567438aa70a3de410ce5c0d/PJ/2020-GUIDE-FFB-CORONAVIRUS.pdf

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