French Draft Finance Bill for 2021: announced measures

On 28 September 2020 the French government released its Finance Bill for 2021 that is expected to be debated in Parliament during the fall and finally adopted by mid December.

Besides the expected measures regarding production taxes, new proposals came out to support French businesses. One aims at tax neutralizing capital gains arising from revaluations of assets and the other at postponing the taxation of capital gains realized on real estate assets in sale and leaseback transactions. Regarding research and development (R&D) tax credit, outsourced expenditures would be harmonized. Finally, VAT measures are also foreseen (clarification of applicable rules as regards to complex transactions, deferral of the effective date of the Directive on distance sales of goods, and creation of a VAT group regime as from 1st January 2023) that will be commented on in a next alert.

Production taxes: expected measures

A permanent decrease of both the territorial economic contribution (contribution économique territoriale—CET) and the company property tax (taxe foncière) is proposed.

Companies engaged in a business in France are subject to CET, which is composed of two different taxes:
• The land contribution for enterprises (Cotisation foncière des entreprises—CFE)
• The contribution on added value of enterprises (Cotisation sur la valeur ajoutée des entreprises—CVAE)
The amount of the property tax on built properties (taxe foncière sur les propriétés bâties) would be reduced for industrial facilities, and there would be partial relief from the CET for all companies.

Other proposed changes include:
• A reduction of the rate of the CVAE from the current rate of 1.5% to 0.75%.
• The taxable basis of the property tax on built properties on industrial facilities would be halved (divided by two). As a collateral benefit, the CFE (land contribution for enterprises) would be reduced since it is assessed on the same tax basis.
• The CET is currently capped at 3% of the added value of the taxpayer; it is proposed that this cap would be reduced at 2% with the expectation that this would “neutralize” the upper limit on the CET (given the proposed decrease of the CVAE and of the property taxes on industrial facilities).

The government expects that companies in industrial and retail sectors would be the main beneficiaries of the proposed tax relief.

**R&D tax credit: harmonization of outsourced expenditures**

Companies which incur R&D expenses can benefit from a tax credit, offset against their corporate income tax liability. The R&D tax credit amounts to 30% of the expenses regarding operations of R&D up to EUR 100 million, and 5% for the excess.

Qualifying expenditures include *inter alia* the depreciation of fixed assets allocated to R&D, staff expenses and outsourced expenses.

Regarding the latter, the qualifying expenses incurred on R&D activities outsourced to public bodies are doubled (multiplied by two) for the computation of the R&D tax credit of the company that ordered them.

Such expenses incurred as from 1st January 2022 would no longer be doubled. As a consequence, operations outsourced to public bodies would be treated in the same way as outsourced to third-party private bodies.

**Revaluation of assets: election for temporary tax exemption**

Tangible and financial assets can be reevaluated under the conditions provided by the French commercial code. In such a case, the difference of valuation is immediately taxed as a capital gain or loss.

The Finance Bill for 2021 would allow a company that decides to revaluate for the first time all its tangible and financial assets to elect for a deferral in the corresponding capital gain taxation.
This deferral would apply assuming the following cumulative conditions are met:
- The company has to compute the capital gain or loss realized on the further transfer of non-depreciable fixed assets according to their fair market value;
- The company must make a book-to-tax adjustment regarding the depreciable fixed assets:
  - On a 15-year period regarding constructions, plantations and modifications of depreciable lands;
  - On a 5-year period regarding other fixed assets.

This measure would be optional and applicable to the first revaluation recorded at the end of a financial year ending between 31 December 2020 and 31 December 2022.

**Sale and leaseback of real estate assets: spreading of the capital gain**

The sale and leaseback of a real estate asset is an operation in which a company sells a real estate asset to a leasing company and leases it back for a long term. As a consequence, the company continues to use the real estate asset but no longer owns it.

Capital gains resulting from the transfer of a real estate asset in such a transaction would be spread into equal parts throughout the duration of the sale and leaseback, without exceeding 15 years. Only real estate used for commercial and industrial purposes would be eligible.

This measure would only concern the sale of real estate assets following a sale agreement closed between 28 September 2020 and 31 December 2022.

**VAT measures**

Regarding VAT measures, a separated TaxNewsFlash will be published soon.

---

**Contacts**

Marie-Pierre Hôo  
Partner  
Tax Technical Committee  
KPMG Avocats

Patrick Seroin Joly  
Partner,  
Head of International Tax  
KPMG Avocats