KPMG

GMS Flash Alert

2019-113 | July 9, 2019

France - Package of Measures Add to France's Appeal to Business, Workers

A new French law contains disparate provisions dealing with business and economic "transformation." However, it also contains some interesting provisions designed – in the eyes of the country's legislators – to make France a more attractive business, investment, and employment destination, in line with France's overall Brexit strategy.

The new law is called *Plan d'Action pour la Croissance et la Transformation des Entreprises* ("PACTE" – in English, "Action Plan for Business Growth and Transformation").[1] It was published in the Official Journal (*Journal Officiel*) on 23 May 2019, after nearly a year going through the various parliamentary stages.

WHY THIS MATTERS

Article 77 of the Law provides that employees who are sent from abroad to occupy a job in France may be exempted from paying into the French old age and complementary pension plans.

The new measure may mean lower French social security costs for certain categories of employees (those transferring to a French local contract or coming from countries with which France does not have a social security agreement).

Employers are advised to seek guidance on whether the exemption makes sense for their employees and what types of insurance products would be acceptable for purposes of this provision.

Background

The French old age and complementary pension plans are components of the French compulsory social security system. Individuals contribute in France when they are not covered under a bilateral social security agreement or under EU Regulation 883/2004 that allows them to remain in their home country social security system.

The Law’s Main Features

The main features are described below:

- The exemption would apply retroactively to employees who took up their work activities from 11 July 2018.
- To benefit, the employee must not have participated at any time during the five years prior to taking office in a French compulsory old-age insurance plan (with the exception of ancillary activities).
- The request must be made within 60 days of starting the new position. If the application is delayed, the employer and the employee will need to comply with reporting and payment obligations until the request is approved. Contributions paid during the intervening period will be refunded upon request.
- Eligible employees will need to make a minimum contribution to a qualifying old age insurance scheme. A recently published decree[2] sets the minimum contribution level at EUR 20,000 per year.
- The exemption is granted by the relevant URSSAF (the French social security contributions collection body), for a period of three years, renewable once (i.e., six years in total).
- The period covered by the exemption will not give rise to any benefit entitlement to the French old age insurance schemes.

Other Aspects of the Law

Other measures include allowing employers to claw back bonuses from “risk takers” working within the financial services sector by making it clear that article L. 1331-2 of the French Labor Code relating to the prohibition of fines and pecuniary penalties does not apply to variable remuneration which is reduced or paid back to the employer by reason of the conduct or behavior of the employee concerned.

In addition, such bonuses are now excluded from the basis used in calculating severance pay and the compensation that could be awarded by a judge in the event of dismissal without a real and serious cause or no cause, given their uncertain nature.

KPMG AVOCATS NOTE

The above measures are designed to make France a more attractive place by removing provisions that made terminating contracts more expensive in France than in other jurisdictions.

FOOTNOTES:

1 *LOI n° 2019-486 du 22 mai 2019 relative à la croissance et la transformation des entreprises* .

2 *Décret n° 2019-606 du 18 juin 2019 relatif aux modalités d'application de la dispense temporaire d'affiliation à l'assurance vieillesse obligatoire pour les salariés impatriés* .

Contact us

For additional information or assistance, please contact your local GMS or People Services professional or one of the following professionals with the KPMG International member firm in France:

Alain Loehr
Partner
Tel. +33 (0)1 55 68 48 32
alainloehr@kpmgavocats.fr

Ann Atchadé
Partner
Tel. +33 (0)1 55 68 48 46
annatchade@kpmgavocats.fr

The information contained in this newsletter was submitted by KPMG Avocats in France.

www.kpmg.com

kpmg.com/socialmedia

Flash Alert is a GMS publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click here. To learn more about our GMS practice, please visit us on the Internet: click here or go to http://www.kpmg.com.