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Global Rewards Update
Draft 2018 Finance and Social Tax Bills on French Qualified Free Shares Regime

Background

As announced in our tax alert in September 2017, the highly-anticipated finance bill for 2018, presented by the French government on 27 September 2017, was enacted by one of the French Parliament Chambers on 24 October 2017. The social security draft bill was also enacted by one of the French Parliament Chambers on 26 October 2017. These draft bills, which remain subject to change until their final enactment, are expected to modify the tax and social secuirty regimes related to qualified free share plans.

A new tax regime for qualified free share plans

Currently, for qualified free share plans appoved after August 8, 2015, the gain realized at vesting is taxed at progressive tax rates. Taper relief also applies based on the holding period of the shares.

Under the draft bill, the gain realized at vesting would remain taxable at progressive rates, subject to a taper relief of 50% for gain up to EUR 300,000.

Global application of the single flat tax on investment income

As of January 2018, investment income such as interest, dividends, and capital gains on the sale of securities would henceforth be subject to a 30% flat tax rate, inclusive of additional social surtaxes (i.e., CSG of 17.2%) and income tax of 12.8%.

Taxpayers subject to a marginal tax rate lower than 30% may elect for application of the progressive income tax rates on their investment income. Additional contribution for high-income individuals (3% or 4%, depending on the amount of income) would however still be due.

Changes to wealth tax

The current wealth tax would be replaced by a tax applied only to real estate assets ("Impôt sur la fortune immobilière") with a value over EUR 1.3 million as of 1 January 2018. As a result, shares acquired through an equity incentive scheme would be excluded from the wealth tax taxable basis.

A reduced employer contribution rate may be applicable with the social security bill

The tax and social regime appplicable to qualified free shares was simplified by the Macron law enacted on 6 August 2015, which lowered the rate of employer contributions to 20% and moved the triggering event to the vesting of the shares. The tax bill for 2017 increased the rate to 30%.

The French representatives voted on 26 October 2017 for an amendment which aims to decrease employer contributions due upon vesting of the shares for awards approved by shareholders after enactment of the legislation. The amendment proposes to decrease the rate from 30% to 20%.

Deloitte's view

Companies which run French qualified equity plans should consider:

- Identifying the tax and social security regime that applies to their existing and future free share grants. This is due to successive tax and social security regime amendments and the potential to arbitrate between several existing regimes for their 2018 awards;

- Issuing appropriate communication to their employees in order to make them aware of the individual income tax and social security regimes applicable to their gains in France.