



## ICEbreakers: Unlocking France



### Hot topics

**Tax reimbursement claim opportunities:** Taxpayers may file claims for reimbursement of the 3% dividend surtax that was declared unconstitutional by the Constitutional Court in October 2017 and then repealed in the finance law for 2018. The reimbursement request may be submitted provided the statute of limitations has not yet expired (i.e. for dividend surtax paid in fiscal years (FYs) 2016 and 2017). Arguments also exist to support claims with respect to statute-barred FYs (i.e. for surtax paid from FYs 2012 to 2015).

### Legislative updates

**New reduced corporate tax rate:** On December 21, 2017, the French parliament adopted the second amended finance law for 2017 and the finance law for 2018, with both laws being enacted at the end of December 2017. The main provisions include the progressive reduction of the corporate income tax rate from 33.33% to 25%:

FY opened	Taxable income (EUR)	Rate under Finance Law for 2018 (%)	Maximum effective rate (with surtax) (%)
Jan. 1, 2018	0 – 500,000	28	28
	> 500,000	33.33	34.43
Jan. 1, 2019	0 – 500,000	28	28
	> 500,000	31	32
Jan. 1, 2020	Entire income	28	28.9
Jan. 1, 2021	Entire income	26.5	27.3
Jan. 1, 2022	Entire income	25	25.8

**French tax credits:** The French “CICE” employment tax credit has been revised:

- The rate is reduced from 7% to 6% of salaries paid to employees in 2018.

- For salaries paid as from 2019, the CICE tax credit will be abolished and replaced by a direct reduction in the employer’s social security contributions.

There are arguments to support the position that the CICE tax credit does not reduce the amount of creditable foreign taxes for US tax purposes. US tax returns should be reviewed to check how the French CICE has been treated since 2012.

**M&A/interest deduction rules:** The “Carrez rule” disallows the deduction for interest expense relating to the acquisition by a French company of a controlling interest in another company for an eight year-period, unless the French acquiring company can demonstrate that it is involved in the acquisition process and the management of the acquired investment. The rule will continue to apply, but, as from January 1, 2018, an EU/European Economic Area-resident entity may be used to manage the acquired investment.

**Cross border reorganizations:** Since January 1, 2018, an advance ruling from the tax authorities no longer is required to qualify for the tax deferral regime in the case of cross-border mergers, spinoffs or contributions of assets to a foreign entity, provided certain requirements are met.

**New tax treaty with Luxembourg:** On March 20, 2018, the French and Luxembourg governments signed a new tax treaty. The new treaty reflects some BEPS recommendations and redefines what constitutes a permanent establishment. It also introduces new rules for the taxation of dividends, interest and royalty payments. Subject to ratification by the respective parliaments, the new treaty provisions could be applicable as soon as January 1, 2019.

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