

January 8, 2016

Modification to French social security and income tax treatment of termination payment

Article 8 of the Social Security Law for 2016 provides a change, applicable as of January 1, 2016, to the social security regime of the termination payments made to corporate officers as well as to employees. In addition, the Finance Law for 2015 has enacted new provisions for the income tax exemption of termination payments made to corporate officers.

Tougher conditions of social and income tax exemptions of termination payments made to corporate officers

As of 2016, the termination payments made to corporate officers may be exempt from social security contributions and CSG-CRDS up to two Annual Social Security Ceilings ASSC (i.e. € 77,232 for 2016) provided that the total amount paid does not exceed five ASSC (i.e. € 193,080 for 2016), compared to ten ASSC before (applicable until 2015).

When the termination payments exceed five ASSC (i.e. € 193,080 for 2016), there is no exemption applicable and the termination payments made to corporate officers are subject to French social security and CSG-CRDS for the entire amount.

In addition, the tax exemption applicable to the termination payments made to corporate officers is now limited to three ASSC instead of six before (i.e. € 114,120 for 2015 and € 115,848 for 2016). The termination payments in excess are taxable as regular compensation. These new ceilings are applicable from the 2015 tax year (i.e. for income reported in 2016).

Relaxed conditions of social security exemption of the termination payments made to employees

The Social Security Law for 2016 has now introduced a distinction between the exemption cap applicable for social security contributions and for CSG-CRDS.

As from 2016, termination payments will be exempt from French social security contributions (up to two ASSC, i.e. € 77,232) regardless of the total amount of termination payments (whereas such exemption was possible before only if the total of the termination payments did not exceed ten ASSC).

For CSG-CRDS purposes, the exemption regime has not changed: the termination payments may be exempt from CSG-CRDS up to two ASSC provided that the total amount paid does not exceed ten ASSC (i.e. € 386,160 for 2016). If so, termination payments are subject to CSG-CRDS for the entire amount.

For income tax purposes, the tax exemption ceilings have not changed for termination payments paid in connection with the breach of the employment contract (Article 80 duodecies 1-3° of the French Tax Code)

Amount of termination payments		< 2 ASSC	> 2 ASSC < 5 ASSC	> 5 ASSC < 10 ASSC	> 10 ASSC
Forced termination of the corporate office	Social security contributions	Full exemption	Exemption within the limit of two ASSC	Subject to for the entire amount	Subject to for the entire amount
	CSG-CRDS	Full exemption	Exemption within the limit of two ASSC	Subject to for the entire amount	Subject to for the entire amount
	Income tax	Full exemption	Exemption within the limit of three ASSC	Exemption within the limit of three ASSC	Exemption within the limit of three ASSC
Breach of employment contract	Social security contributions	Full exemption	Exemption within the limit of two ASSC	Exemption within the limit of two ASSC	Exemption within the limit of two ASSC
	CSG-CRDS	Full exemption	Exemption within the limit of two ASSC	Exemption within the limit of two ASSC	Subject to for the entire amount
	Income tax	Full exemption	Full exemption	Exemption within the limit of six ASSC	Exemption within the limit of six ASSC
Changes are highlighted in light purple					

The members of our team remain at your disposal for any question you may have regarding VAT law and its impact on your company.

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