tax notes international

Volume 65, Number 11 ■ March 12, 2012

French Lawmakers Approve Finance Bill

by Sophie Borenstein

Reprinted from *Tax Notes Int'l*, March 12, 2012, p. 791

Reprinted from *Tax Notes Int'l*, March 12, 2012, p. 791

HIGHLIGHTS

French Lawmakers Approve Finance Bill

by Sophie Borenstein

The French Senate (upper house of Parliament) on February 29 rejected for the second time a draft of the First Amended Finance Act for 2012, but with a parliamentary committee also unable to reach an agreement, and at the request of the government, the National Assembly (lower house) bypassed the Senate and approved the First Amended Finance Act for 2012 in its entirety.

The original draft had been amended and adopted by the National Assembly on February 16, and again (with no further amendments) on February 28. The most important amendments are summarized below.

Registration Fees

The 2012 Finance Bill published on December 29, 2011, revised the registration fees payable on the sale of shares, effective January 1, by eliminating the ceiling of €5,000 and implementing a new sliding scale fee ranging from 0.25 to 3 percent of the sale price.

During its first vote on the draft bill on February 16, the National Assembly adopted an article that will make the sale of shares (regardless of whether they are listed on a stock exchange) subject to a fixed tax rate of 0.1 percent of the sale price, and will preserve the ceiling on the registration fees and the tax currently applicable to the sale of partners' shares (3 percent of the sale price after a tax deduction of €23,000 per sale).

The National Assembly also revised the bill so that the fixed-rate registration fee of 0.1 percent will not apply to transactions that will be subject to the new financial transaction tax (FTT), which will apply to transactions involving listed companies located in France for which the market capitalization exceeds €1 billion.

Financial Transaction Tax

The National Assembly on February 16 also adopted an article implementing a new tax on financial transactions, effective August 1. The FTT will apply mainly to sales of shares listed on a stock exchange and some derivative contracts (namely, naked credit default swaps and high-frequency trading operations).

For sales of shares listed on a stock exchange, the FTT will be equal to 0.1 percent on all transactions involving companies located in France whose market capitalization exceeds €1 billion. There will be no cap on the amount, and the FTT will not apply to transactions carried out in connection with employee saving schemes and intragroup operations.

Social Contributions

The Second Modified Finance Bill for 2011 increased the rate of social contributions from 12.3 percent to 13.5 percent on property and investment products.

The National Assembly on February 16 voted for a 2 percentage point increase (from 3.4 percent to 5.4 percent) in the social contribution. Consequently, the total amount of social contributions due on property income (such as land revenues and capital gains on the sale of securities) and investment income (such as dividends, interest, and real estate capital gains) is 15.5 percent.

The new 15.5 percent rate applies to investment products received on or after July 1, 2012, and to property products received from January 1 onward.

Social VAT

The National Assembly also adopted an article that will increase the normal VAT rate from 19.6 percent to 21.2 percent, effective October 1.

In France, the applicable VAT rates will be set at 21.2 percent (the normal rate), 7 percent (the previous reduced rate of 5.5 percent that was increased by the Fourth Modified Bill for 2011), and 2.1 percent (the super-reduced rate).

International Tax Fraud

The National Assembly also voted to step up sanctions against taxpayers who commit fraud.

A penalty equal to €1,500 or 5 percent of the credit balance will generally apply if a taxpayer fails to report amounts in excess of €50,000 that it holds in a foreign bank account, and a penalty of €10,000 will apply for bank accounts held in a noncooperative country or territory (NCCT).

Similarly, if a taxpayer fails to report foreign life insurance contracts, a penalty of €1,500 will apply. The penalty will increase to €10,000 for accounts held in an NCCT, and to 5 percent of the value of the contract if it is for more than €50,000.

In the case of tax fraud, the criminal fine will be increased from €37,500 to €500,000. The fine will be increased from €75,000 to €750,000 if there have been purchases or sales for which no invoices were issued, if there are invoices that are not related to real transactions, or if the purpose is to obtain an unjustified tax refund.

For taxpayers committing tax fraud through the use of tax havens, the penalty will be increased to seven years in prison and a fine of €1 million. ◆

♦ *Sophie Borenstein is a partner with Reed Smith in Paris.*