

HANDBOOK

# COMPANIES AND FRENCH TAX AUTHORITIES: **A NEW TRUST-BASED RELATIONSHIP**



MINISTÈRE  
DE L'ACTION ET DES  
COMPTES PUBLICS

# Contents

The main initiatives of the new trust-based relationship: 7 measures .....	2
Customised tax support for SMEs .....	5
Tax partnership with major companies and mid-tier firms .....	10
Compliance conditions for a tax partnership or customised tax support.....	16

## **FAQs:** **18**

Customised tax support for SMEs .....	19
The tax partnership for mid-tier companies and major enterprises .....	25
The Tax Compliance Department .....	33
Tax compliance assessment by a trusted third party	37
Improved discussions and appeals as part of tax audits .....	39
The tax ruling action plan .....	41
Assistance to companies dealing with tax authorities in other countries.....	45

# The main initiatives of the new trust-based relationship: **7 measures**



**Customised tax support for SMEs**



**Tax partnership with major companies and mid-tier firms**



**Voluntary compliance**



**Tax compliance  
assessment by a qualified third-  
party auditor**



**Enhanced tax audit dialogue and  
appeals process**



**Harnessing resources  
for tax rulings**



**Support for French companies  
abroad**

# Customised tax support for SMEs

## RULES

### 1. Purpose of tax support

Tax support is targeted to small and medium-sized enterprises (SMEs) that request it. The purpose is to deal with tax questions that arise in the course of their business operations and which entail substantial risk and high stakes.

Each SME selects issues it deems important on a case-by-case basis, with the assistance of the tax authorities and in light of its specific characteristics.

The issues chosen by the SME can result in a tax ruling being issued by the tax authorities. The positions expressed in rulings are binding on the tax authorities.

This tax support leverages the resources of the tax authorities to:

- Proactively identify tax issues that warrant clarification or confirmation by the authorities due to their significant potential financial impact
- Analyse the potential tax options that a company may choose to pursue, in an iterative collaborative process between the company and the authorities, if necessary

Companies may use the customised tax support service either on a punctual basis, or by making several successive requests over time, depending on their specific needs. Meanwhile, the tax authorities may assist CEOs in an endeavour to pinpoint issues that warrant discussion.

## 2. Prerequisites

a. Customised tax support is designed for SMEs as defined under EU law, i.e. companies with fewer than 250 employees and an annual turnover not exceeding €50m, and/or total balance sheet assets not exceeding €43m.

These criteria are assessed on a consolidated scope that includes an SME's "partners" and "linked enterprises", as stipulated under EU law.<sup>1</sup>

b. This service is intended for companies that show strong potential in terms of growth and job creation. With this in mind, the Public Finances Directorate General (DGFIP) endeavours to target this service for companies that are:

- growing in terms of both turnover and headcount
- showing innovation and active in R&D

or

- working in strategic sectors of the French economy

c. Any company that has been fined for intentional non-compliance with tax rules in the previous three years is, in principle, ineligible for customised tax support. However, any act of non-compliance that was voluntarily disclosed or that resulted in discretionary tax relief will not be considered cause for ineligibility.

d. These criteria are reviewed in collaboration with the applicant companies, and are assessed in light of the specific circumstances and issues.

---

<sup>1</sup> This method is defined in Annex I of Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty Text.

### 3. Access to tax support

As this is a new service, the tax authorities will work actively to publicise it, contacting target companies directly to offer the service to them.

To benefit from customised tax support, an SME can submit its request to its Business Tax Department (*service des impôts des entreprises* – SIE).

### 4. Principles governing the relationship between the administration and participating companies

The tax authorities and participating companies shall comply with the following cooperative principles:

- Transparency and clarity in all sharing of information
- Availability and responsiveness
- A pragmatic approach that recognises the constraints faced by each party

These principles will drive mutual knowledge and trust, laying a foundation for both parties to develop an ever more efficient working relationship.

### 5. The tax authorities' commitments

The tax authorities undertake to:

- Appoint a contact person for each participating company and harness all the skills needed to deal with the identified tax issues. In principle, this contact person is an employee of the legal department of the Public Finances Regional Directorate (DRFiP), and for the Île-de-France region, an employee of the Hauts-de-Seine Public Finances *Département* Directorate (DDFiP).
- Work with the company to formally identify issues for which an official position from the authorities would be useful. Such issues

may involve the tax treatment of recurring transactions for sizeable amounts of money or major one-off transactions related to the company's development (such as restructuring, valuation of assets, creation of overseas subsidiaries, etc.).

- Be responsive and adaptable to the company's tax and business timetable.
- Attend meetings on the company's premises and at its request in order to make sure that the questions have been understood properly and to understand its market, business activity and positioning.
- Issue a written opinion on the identified tax issues by way of a binding official position (i.e. a tax ruling) within three months or, if a longer discussion is necessary due to the complexity of the matter, by a deadline agreed to with the company. However, this service is also designed to allow informal discussions to take place as and when they are needed.
- Process all requests for tax refunds promptly.

## 6. Participating companies' commitments

Each participating company undertakes to:

- Voluntarily provide any information, analyses and internal/external documents at its disposal that may make the discussions more efficient or boost their quality in order to identify the tax issues requiring a secure answer and to ensure that these issues are dealt with in compliance with application legislation.
- Answer requests from the tax authorities so that these issues can be handled properly and provide the requested documents in a timely fashion in keeping with the mutually agreed timetable.

## 7. Scope of tax opinions

The tax issues subject to a written opinion from the DGFIP cannot give rise to additional tax assessments for past returns if the company's position complies with the solution set forth by the tax authorities in an opinion and if the actual facts are identical to what was presented by the company.

The company is entitled to rectify any errors or omissions that may be revealed during the customised tax support process. These rectifications shall not give rise to penalties, and the interest on arrears provided for under Article 1727 of the French General Tax Code shall be halved.

## 8. Practical aspects

Tax support is a service offered by the tax authorities. It is a customised service provided over a long period of time.

Companies are, of course, free not to follow the advice given by the tax authorities.

As for all tax rulings, the opinion may be submitted to the National Tax Ruling Review Board, as laid out in Article L. 80 CB of the Book of Tax Procedures.

## 9. Confidentiality

The tax authorities are legally bound to professional secrecy, pursuant to Articles L. 103 *et seq.* of the Book of Tax Procedures and Articles 226-13 and 226-14 of the Criminal Code.

The documents submitted under item 6 (above) can only be used by the tax authorities for matters related to customised tax support.

In particular, these documents may not be used in a tax audit. For tax audits, the tax authorities make use of investigative powers as stipulated in the General Tax Code and the Book of Tax Procedures.

# Tax partnership with major companies and mid-tier firms

## PROTOCOL TO BE SIGNED BY THE GOVERNMENT AND PARTICIPATING COMPANY

### Article 1. Purpose

The tax partnership is a customised service whose purpose is to establish a long-standing working relationship between the participating company and the designated contact person within the tax authorities. The aim is to confirm the tax treatment for matters that involve large amounts of money or high risk for the company. Questions may relate to all the taxes and levies managed and collected by the Public Finances Directorate General (DGFIP).

For tax groups, the company and tax authorities shall agree mutually on the scope of the tax partnership and the person authorised to conduct discussions on the company's behalf.

### Article 2. Prerequisites

- a. The tax partnership is open to companies with 250 or more employees and an annual turnover of €50m or more, and/or total balance sheet assets of more than €43m.
- b. The tax partnership is based on establishing a trust-based relationship between the DGFIP and the participating company. Therefore, only companies that comply with their legal obligations and cooperated with the tax authorities are eligible.

The participating company must fulfil the eligibility criteria throughout the full duration of the tax partnership.

Any company that has been fined for intentional non-compliance with tax rules in the previous three years is ineligible for a tax partnership. However, any act of non-compliance that was voluntarily disclosed or that resulted in discretionary tax relief will not be considered cause for ineligibility.

These criteria are reviewed in collaboration with the applicant company. For consolidated tax groups, non-compliance by any member of the tax group is considered cause for ineligibility if it resulted from a decision made at group level or if it had a significant impact at group level.

c. These criteria are reviewed in collaboration with the applicant companies, and are assessed in light of the specific circumstances and stakes.

### Article 3. Principles governing the relationship between the tax authorities and participating companies

The tax authorities and participating companies shall comply with the following cooperative principles:

- Transparency and clarity in all sharing of information
- Availability and responsiveness
- A pragmatic approach that recognises the constraints faced by each party

These principles will drive mutual knowledge and trust, laying a foundation for both parties to develop an ever more efficient working relationship.

## Article 4. The tax authorities' commitments

The DGFIP undertakes to:

- Appoint a contact person for each participating company and harness all the skills needed within the DGFIP to deal with the contact person's questions. This contact person is an employee of the Large Business Directorate (DGE).
- Work with the company to define the terms for their long-term cooperation: identifying tax issues that entail risks and/or strategic stakes, organising the actual processes for sharing information, notably including the need to hold meetings at the company and to communicate using methods that are adapted to its constraints.
- Issue a written opinion, i.e. a tax ruling, for the tax issues identified by the company and/or by the tax authorities. The DGFIP shall issue this opinion promptly, within three months maximum, depending on the company's financial deadlines and the complexity of the issue at hand.

The relevant tax issues cannot give rise to additional assessments in the future if the company adheres to the solution put forward by the tax authorities in the tax ruling and if the observed facts are identical to what was presented by the company when requesting the ruling. In the case of a tax group, the opinions issued by the DGFIP within the tax partnership are binding for all group companies in an identical situation.

- Not enforce penalties or interest on arrears when the company corrects a tax filing in compliance with the tax authorities' opinion in cases in which the company requested an opinion before the filing date but the opinion was not issued until after the filing date.
- Rapidly adjust tax assessments, without penalties and with interest on arrears reduced by half, for any errors or omissions made in good faith and revealed during the tax partnership with

regard to tax years not yet time-barred, including tax losses carried forward at the beginning of the period. Any errors or omissions discovered in the filings of group companies in an identical situation can be handled in the same way.

- Process all requests for tax refunds promptly.

## Article 5. Participating companies' commitments

Each participating company undertakes to:

- Present and provide documentation on its organisation and its internal tax auditing processes.
- Voluntarily provide any information, analyses and internal/external documents at its disposal that may make the discussions more efficient or boost their quality in order to identify the tax issues requiring a secure answer and to ensure that these issues are dealt with in compliance with application legislation. For these purposes, the tax authorities must notably be able to review the relevant entries in the company's entry journal software.
- Present the major strategic, financial and legal events that have affected or could affect the company and its group. These presentations will take place at least once a year or more often according to a schedule defined by both parties. As part of these presentations, the company may submit formal documents to the tax authorities to assist in their review of the tax treatment of past or forthcoming transactions.
- Answer requests from the tax authorities so that these issues can be handled properly and provide the requested documents in a timely fashion in keeping with the mutually agreed timetable.

## Article 6. Dispute resolution

A company may decide not to follow the tax authorities' opinion. Such a decision does not terminate the tax partnership unless either party so desires.

The tax authorities' opinion may be submitted to the National Tax Ruling Review Board, as laid out in Article L. 80 CB of the Book of Tax Procedures.

If no agreement can be reached, the DGFIP will, via the DGE, notify the company of the tax consequences of its position. The company may in turn challenge this position before the tax judge using the customary legal procedures.

## Article 7. Length of the tax partnership

The tax partnership is automatically renewed each year.

## Article 8. Termination

At any time, the company or the tax authorities may withdraw from the tax partnership for non-compliance with these terms and conditions.

The party that wishes to terminate the partnership shall notify the other party of its decision.

It does not have to indicate the reasons for its decision.

The partnership is terminated as soon as notification is received.

## Article 9. Confidentiality

The tax authorities are legally bound to professional secrecy, pursuant to Articles L. 103 *et seq.* of the Book of Tax Procedures and Articles 226-13 and 226-14 of the Criminal Code.

The documents submitted under Article 5 of this protocol can only be used by the tax authorities for matters related to the tax partnership, including with regard to the conditions of Article 6 above.

These documents may not be used as part of a tax audit. For tax audit purposes, the tax authorities make use of investigative powers as stipulated in the General Tax Code and the Book of Tax Procedures.

Lastly, the official positions established within the tax partnership are communicated to the DGFIP's other relevant departments for the purposes of implementation.

# Compliance conditions for a tax partnership or customised tax support

To be eligible for a tax partnership, a company must, in principle, have complied with the following conditions for the three years prior to presenting its application:

- It must have met all tax filing obligations and resulting tax payment deadlines.
- It must have met all filing obligations pursuant to Article 223 *quinquies* B of the General Tax Code with regard to transfer pricing, Article 223 *quinquies* C for the country-by-country reporting and Articles 1671 A and 1672 for withholding tax.
- It must have met its obligation for filing the single tax form (Article 242 *ter* of the General Tax Code) and for the report on royalties, fees, commissions, brokerage, discounts and tokens (the DAS2 form; Article 240 of the General Tax Code).

In addition, during the three years prior to presenting its application, the company must have:

- Complied with its obligation to answer all information requests laid out in Article L. 10 of the Book of Tax Procedures and/or requests from the tax authorities in application of the right to request information under Articles L. 81 *et seq.* of the Book of Tax Procedures.
- Used entry journal software that complies with the standards established in Article A 47 A-1 of the Book of Tax Procedures (i.e. the “standard format”).
- Fulfilled the obligation laid out in Article 289 of the General Tax Code regarding billing systems and ensuring a reliable audit trail.

- Fulfilled the obligation laid out in Article L. 13 AA of the Book of Tax Procedures with regard to making available documentation on transfer prices.

Any company that has been fined for intentional non-compliance over the previous three years is ineligible. However, any act of non-compliance that was voluntarily disclosed or that resulted in discretionary tax relief will not be considered cause for ineligibility.

\*

\* \*

These criteria are reviewed in collaboration with the applicant companies, and are assessed in light of the specific circumstances and stakes.

# FAQs

FAQ:

## Customised tax support or SMEs

### What are the benefits of customised tax support from an SME's standpoint?

Following the Government Reform Act for a Trust-Based Society (ESSOC), a public consultation was held during which companies expressed a strong need for greater legal certainty on tax matters. Companies can invest and conduct their ordinary operations more easily when the enforcement of standards is predictable, thus reducing some of the uncertainties businesses face.

The purpose of customised tax support for SMEs is to meet this need for legal certainty and thus to enable these companies to focus as much as possible on their core business, bearing in mind that – unlike larger companies – they often do not have all the expertise needed to handle all their tax issues in-house.

To adapt to SMEs' need for flexibility and responsiveness, this service is designed so that companies may use it either on a punctual basis, or by making several successive requests over time, depending on their specific needs.

### What are the benefits from the tax authorities' standpoint?

Customised tax support for SMEs is aimed at improving the administrative environment for business and enhancing the relationship between the tax authorities and companies. It is designed so that the tax authorities will have a better understanding of

companies' activities and the major events affecting their operations, thus allowing for tax issues to be handled more rapidly when clarification is needed, while also avoiding disputes. The aim is also to streamline the use of the tax authorities' resources.

### Who is eligible for customised tax support?

Customised tax support is available to small and medium-sized enterprises (SMEs) as defined under EU law, i.e. companies with fewer than 250 employees and an annual turnover not exceeding €50m, and/or total balance sheet assets not exceeding €43m. SMEs must also fulfil eligibility criteria with regard to their tax obligations (see below). This service is intended especially for companies that show strong potential in terms of growth and job creation. The tax authorities may reach out to targeted companies to make sure they are aware of this new service.

### How do companies apply?

A company that wishes to benefit from customised tax support should contact its Business Tax Department (*service des impôts des entreprises* – SIE). The contact details for your Business Tax Department are available online:

<https://www.impots.gouv.fr/portail/contacts>

### How are the eligibility criteria assessed?

To be eligible, a company must not have been ordered to pay financial penalties for intentional non-compliance in the previous three years. However, any act of non-compliance that was voluntarily disclosed or that resulted in discretionary tax relief will not be considered cause for ineligibility.

These criteria are reviewed in collaboration with the applicant companies, and are assessed in light of the specific circumstances and stakes.

## What commitments must participating companies make?

Each participating company undertakes to:

- Voluntarily provide any information, analyses and internal/external documents at its disposal that may make the discussions more efficient or boost their quality in order to identify the tax issues requiring a secure answer and to ensure that these issues are dealt with in compliance with application legislation.
- Answer requests from the tax authorities so that these issues can be handled properly and provide the requested documents in a timely fashion in keeping with the mutually agreed timetable.

## What are the tax authorities' commitments?

Each company will have a contact person working in the legal department of the relevant Public Finances Regional Directorate (DRFiP). For the Île-de-France region, an employee of the Hauts-de-Seine Public Finances *Département* Directorate (DDFiP) will fulfil this role.

The contact person will work with the company to identify the issues for which an official position from the authorities would be useful. This position may be in the form of a tax ruling that is binding on the tax authorities.

The tax issues covered by a tax ruling cannot give rise to subsequent tax assessments if the company's position complies with the solution set forth by the tax authorities in the ruling and if the facts were correctly presented in order to obtain a well-founded opinion.

The information provided by the company may be used by the tax authorities solely for the purpose of the partnership. It will not be used for tax audits. For audits, the tax authorities shall make use of investigative powers under the conditions provided for by the General Tax Code and the Book of Tax Procedures.

### How soon will the tax authorities issue an opinion?

The tax authorities will endeavour to issue their opinion on the tax issues being reviewed as promptly as possible, taking into consideration the company's financial deadlines and the complexity of the issue at hand. The goal is to issue all opinions within three months. However, certain complex issues may require more time, while others may require less time.

### What issues can be addressed? Are there any limitations? Are there any obligations?

Any tax issue that entails risks or has a major strategic importance for the company can be dealt with, regardless of the type of tax, provided that the company submits useful information for handling the issue.

A company may inform its contact person about tax issues or about planned transactions for which it requires legal certainty in terms of tax treatment. In this case, the contact person will assist the company in analysing the stakes and the tax risks and in identifying solutions.

### Does the company decide which issues will be discussed, or can the tax authorities also recommend topics of discussion?

Depending on each company's needs, the items under review are determined mutually with the tax authorities as part of a discussion aimed at detecting the main tax risks to be addressed.

## Can tax support address outstanding audit or litigation issues?

The tax support service is designed to address tax issues before they become problematic.

It is part of an approach based on mutual trust and transparency. If a tax issue is disputed during a tax audit or appeal, the company should inform its contact person.

If the issue is already being addressed in a tax audit, the audit will continue its course. The issue at hand will not be examined as part of customised tax support, which focuses on the current year and future tax years.

Under these circumstances, if a tax issue is being addressed both by the tax support service and by an audit department, the teams involved will work together to agree on the most suitable way of handling this issue.

Lastly, the tax support service can also review an issue that is the subject of an appeal if it is still relevant for the current tax year. In this case, the other relevant DGFIP departments will be involved in this process.

## What is the scope of the opinions issued by the tax authorities?

The tax issues subject to a written opinion from the tax authorities cannot give rise to additional tax assessments if the company's position complies with the solution set forth by the tax authorities in an opinion and if the actual facts are identical to what was presented by the company.

Errors or omissions that are revealed during the customised tax support process can be corrected by the company if they were made in good faith. In this case, there are no penalties, and the interest on arrears is reduced by half.

## What is the relationship between tax support and audits?

The role of tax audits is unchanged. Nevertheless, as the main tax risks must be identified and eliminated during the customised tax support process, the opportunity for an audit is limited and in any case, the scope of any audit is reduced.

## How are disagreements settled?

A company may opt not to follow the opinion issued by the tax authorities on a tax issue, but in this case, it is not protected from an audit on this issue.

As for any tax ruling, the company may request that the tax authorities' opinion be reviewed by the National Tax Ruling Review Board.

FAQ:

## The tax partnership for mid-tier companies and major enterprises

### What are the benefits of the tax partnership from a company's standpoint?

During the public consultation carried out following the Government Reform Act for a Trust-Based Society, companies strongly emphasised their need for greater legal certainty in tax matters.

By minimising some of the risks a company faces, more predictable conditions for applying standard tax measures would facilitate investment and business life in general.

Meeting this need for legal certainty is the goal of the tax partnership with major enterprises and mid-tier companies. It was designed for companies that carry out complex activities and transactions and that regularly feel the need for greater certainty with respect to how their tax issues are handled.

A partnership takes the form of a protocol signed between the tax authorities and the company, thus establishing a long-term working relationship. The partnership provides access to the Corporate Partner Department (SPE), a dedicated unit tasked with addressing the company's principal tax issues as they arise, so that the company can fulfil its reporting obligations in light of the tax authorities' enforceable position.

For this purpose, each company is assigned a dedicated contact person who develops his or her knowledge of the company.

## What are the benefits from the tax authorities' standpoint?

The purpose of the tax partnership is to improve the administrative aspect of economic life and the relationship between the tax authorities and companies.

It is expected to foster better understanding of companies' business activities and significant events that may have an impact on them, and thus lead to tax issues that require clarification be handled more quickly, while preventing disputes.

Another goal of the partnership is better use of the tax authorities' resources.

## Who is eligible for a tax partnership?

Partnerships are aimed at large companies and mid-tier firms, i.e. companies with 250 or more employees and a turnover of €50m or more or total balance sheet assets of €43m or more.

Companies wishing to apply for a partnership must undertake to comply with their reporting and tax payment obligations and to cooperate with the tax authorities (see below). These conditions must be respected throughout the relationship.

## How do companies apply?

Companies wishing to enter into a partnership must apply to the Large Business Directorate (DGE) located in Pantin (Seine-Saint-Denis), where the offices of the Corporate Partner Department (SPE) are located.

If they have questions, companies can contact the SPE directly by e-mail at [dge.spe@dgfip.finances.gouv.fr](mailto:dge.spe@dgfip.finances.gouv.fr) or by telephone on (+33) 1 49 91 15 60.

## How are the eligibility criteria assessed?

To be eligible, a company must have, in the three years prior to its application, complied with its filing obligations and the resulting payment deadlines, as well as with its obligations relating to transfer pricing documentation and responses to requests by the tax authorities under their right to disclosure, as well as its obligations concerning the conformity of entry journal software, etc.

A company that has been subject to penalties for intentional non-compliance during this three-year period is not eligible. However, breaches that have been settled voluntarily do not count with regard to this condition.

All of these conditions are assessed at the level of the signatory company. In the case of a tax consolidation group, however, breaches by an integrated subsidiary are taken into account if they are the result of a decision made by the group or if they appear to be significant at group level.

These criteria are assessed with discretion, depending on the circumstances and the extent of any breaches.

## What are the company's commitments as part of the tax partnership?

To ensure that the tax partnership functions properly, the company must agree to conduct itself with transparency, by:

- Presenting and documenting its organisation and internal control procedures with respect to tax matters
- Voluntarily providing any information, analyses and internal/external documents at its disposal that may make the discussions more efficient or boost their quality in order to identify the tax issues requiring a secure answer and to ensure that these issues are dealt with in compliance with application legislation. To this end, the tax authorities must be able to examine the relevant elements of the entry journal software.

- Presenting, at intervals to be determined by the parties and at least annually, the major strategic, financial and legal events that have affected or are likely to affect the life of the company and its group. This presentation may be formalised by submitting documents to the tax authorities to assist them in their review of the tax treatment of transactions that have been or will be carried out.
- Answering requests from the tax authorities allowing the processing of these topics and communicating the requested documents within deadlines that are compatible with the mutually agreed-upon timetable.

### What are the tax authorities' commitments?

The tax authorities will appoint a single contact person within the DGE's Corporate Partner Department (SPE), who shall determine, with the company, the points to be assessed.

This assessment may lead to the issuance of a written opinion, in the form of a binding tax ruling. In the case of a tax consolidation group, the positions taken are enforceable with respect to the tax authorities for all of the group's companies in a similar situation.

The tax issues covered by a ruling cannot give rise to subsequent tax assessments if the company's position complies with the solution set forth by the tax authorities in the ruling and if the facts were correctly presented to obtain a well-founded opinion.

The information provided by the company may be used by the tax authorities solely for the purpose of the partnership. It will not be used for tax audits. For audits, the tax authorities shall make use of investigative powers under the conditions provided for by the General Tax Code and the Book of Tax Procedures.

## How soon will the tax authorities issue an opinion as part of the partnership?

The SPE will endeavour to take a position on the assessed tax issues as promptly as possible, depending on the company's deadlines and the complexity of the issue. The goal is to issue all opinions within three months. However, certain complex issues may require more time, while others may require less time.

## What issues can be addressed? Are there any limitations? Are there any obligations?

Any tax issue that entails risks or has a major strategic importance for the company can be discussed, regardless of the type of tax.

## Can a group's transfer pricing policy be validated as part of the tax partnership?

The SPE may tackle one-off transfer pricing issues, such as the validation of a royalty rate.

The overall validation of a transfer pricing policy is a complex task that requires the skillset of the DGFIP's International Legal and Economic Advisory Unit (MEJEI). A specific procedure known as the Advance Pricing Agreement (APA) has been established for this purpose, and companies may, of course, use this procedure as part of the partnership.

For one-off topics, the SPE may call on the MEJEI to review these Advance Pricing Agreements.

## How are topics selected?

Topics to be assessed are determined jointly by the company and the SPE, with a focus on identifying the main tax risks to be dealt with.

As part of this, the company provides the SPE with elements at its disposal, both internal and external, which may help to identify issues requiring assessment and ensure that they are dealt with in accordance with applicable legislation.

## What happens if the SPE identifies issues that are of general interest to companies?

In its work, as soon as the basic principles or the complexity of the issues involved so require, the SPE will be aided by the central administration of the DGFIP, in particular the Taxation Legal Department and the Tax Policy Directorate.

Tax rulings issued by the SPE that are of wider interest will be published anonymously so that all relevant stakeholders, particularly those within a given economic sector, can be informed.

In addition, concurrent with the tax partnership, a forum comprised of representative organisations for businesses is being set up to allow upstream resolution of cross-sector issues. Where appropriate, issues examined by the SPE may be brought before this body.

## How does this relate to requests from companies that are examined at central administration level?

The SPE is intended to serve as a single point of contact for a company, which submits to the SPE all requests to the DGFIP for the purpose of securing its tax situation.

In the case of procedures handled at central administration level (certain tax rulings, approvals, advance transfer pricing agreements), the SPE monitors the progress of the investigation and may become involved as necessary.

## Can the partnership address outstanding audit or litigation issues?

The main purpose of the tax partnership is to address future issues.

It is part of a process of mutual trust and transparency. If a tax matter is the subject of a dispute as part of a tax audit or litigation, the company must inform its SPE contact person within the DGE.

If the matter is already being discussed as part of an audit, the audit will be allowed to take its course; it will not be examined as part of the partnership, which concerns the current and future years.

In the event that a tax issue is addressed simultaneously within the SPE and as part of an audit, the teams involved will agree on the most appropriate way to assess it.

Finally, the SPE and the company may, where appropriate, review an issue that is the subject of a dispute, provided that the issue also concerns the current year. Other DGFIP departments that may be concerned will be involved in this review.

### What is the relationship between the partnership and audits?

A company can still be the subject to a tax audit. However, since the goal is to identify and eliminate the primary tax risks within the framework of the tax partnership, the chances of an audit are small and, in any case, it will be of limited scope.

In any event, an audit will only take place after an in-house discussion between the SPE and the audit department.

### What is the relationship between the tax partnership and the tax assessment units (IFUs) within the Business Tax Department?

The IFU, which is also part of the DGE and has management jurisdiction, will be kept informed by the SPE. Some issues may require cooperation between the two groups, particularly in the area of consolidation.

### How are disagreements settled?

The company may opt not to follow the advice issued by the tax authorities on a tax issue. Such a decision does not terminate the partnership unless one of the parties so wishes.

The opinion of the tax authorities may be submitted to the National Tax Ruling Review Board as stipulated in Article L. 80 CB of the Book of Tax Procedures. In the event of an ongoing dispute, the company may, provided the conditions laid down in the relevant case law are met, bring proceedings against this ruling.

If the company files its tax return without taking into account the authorities' opinion, the latter will propose an adjustment and the dispute may be appealed by the company and submitted to the tax judge under the usual conditions.

### How will financial years that are not time-barred be handled?

Financial years that are not time-barred should be corrected by the company, including the balance of losses carried forward at the beginning of the first of these financial years, as well as any involuntary errors or omissions revealed in the context of the partnership. The default interest rate applied to the resulting tax surcharges will be reduced by half.

In the case of a group where the same involuntary errors or omissions are found in several companies in the same situation, the group should correct them according to the above procedures.

### What is the connection between the tax partnership and the trust-building test phase?

The test phase is over. The tax partnership covers subsequent financial years, starting from 2019.

Of course, if they wish to and are eligible, those companies that took part in the test phase may sign up for a tax partnership.

The company or the tax authorities may terminate the tax partnership at any time by informing the other party. No justification is needed. Termination shall take effect upon notification.

FAQ:

# The Tax Compliance Department

## What is the Tax Compliance Department?

While certain intentional tax actions, which are sometimes connected to complex issues, are penalised by fines in the event of a tax audit, there may be cases where a company (or its manager, for his or her personal situation) wishes to comply voluntarily with tax legislation.

The Tax Compliance Department (SMEC) exists for this purpose. Within the DGFIP, it reports to the Large Business Directorate (DGE).

## What is this department's area of jurisdiction?

All tax anomalies discovered by new owners and buyers of companies may be submitted to the Tax Compliance Department.

The following issues also fall within the department's remit:

- Undeclared activity in France, constituting a permanent establishment
- Deduction of all or part of the interest on a loan granted by a foreign company in violation of the provisions of Article 212 of the General Tax Code
- Arrangements that are the subject of a factsheet published on the [economie.gouv.fr](http://economie.gouv.fr) site (e.g., profit relocation schemes following restructuring, tax treaty abuses or double deduction of loan interest) and, in general, any arrangements involving overseas structures
- Transactions that could be subject to the heaviest tax penalties (80% surcharge)

Executives may also bring their personal situation into compliance with the rules in force by contacting the SMEC in the following cases:

- The expatriate tax regime provided for in Article 155 B of the General Tax Code
- Non-compliance with the conditions of a "Dutreil" scheme (Article 787 B of the General Tax Code)
- Wrongful exemption of capital gains on the sale of securities
- Arrangements that are the subject of a publication on the [economie.gouv.fr](http://economie.gouv.fr) website, in particular management package schemes and misuse of share savings plans.

### How are tax issues referred to the SMEC?

The SMEC is part of the Large Business Directorate. It has national scope and is the single point of contact for voluntary compliance requests. All companies, regardless of their size, and all company executives, with respect to their personal tax situation, that would like to bring a situation into compliance that falls within the scope of the SMEC must submit their requests to the DGE:

Requests must be accompanied by:

- A written statement that describes the issue in a precise and detailed manner, accompanied by supporting documentation
- Amended returns covering the entire non-time-barred period
- Supporting documentation for the amounts concerned that allow calculations to be made to ascertain the accuracy of the figures
- A statement from the taxpayer that the compliance request dossier is sincere

Taxpayers can also contact the SMEC earlier in the process should they have questions or difficulties preparing a filing.

The SMEC can be contacted at the following address:

E-mail: [dge.smec@dgfip.finances.gouv.fr](mailto:dge.smec@dgfip.finances.gouv.fr)

Telephone: (+33) 1 49 91 15 60

## What are the consequences of coming into compliance as part of the SMEC process?

The voluntary nature of the process is taken into account by means of a settlement agreement to adjust the rate of any applicable surcharges and interest on arrears. The Tax Compliance Department applies a penalty scale that has been determined in advance and is non-negotiable. For example, in situations of deliberate non-compliance handled by the SMEC, the surcharge rate may be reduced from 40% to 15% and interest on arrears reduced by 40%.

When only interest on arrears is due, it will be reduced by half as part of the right to make a mistake, in accordance with the provisions of Article 1727 V of the General Tax Code.

Taxpayers will have to fully settle any additional taxes charged to them or undertake to pay them in instalments according to a timetable approved by the tax authorities.

The settlement may be challenged and declared null and void if it is subsequently revealed that the amended returns and the dossier submitted were not sincere.

## What is the relationship between this procedure and an audit?

The process must be voluntary. Companies or executives that are currently undergoing a tax audit, have received notice of an audit or are the subject of an administrative or judicial investigation procedure are therefore not eligible. In these specific cases, other procedures are provided for, in particular correction of the tax situation during the audit, the scope of which has been expanded under the Government Reform Act for a Trust-Based Society. In the event of a dispute with the company – or with the executive with regard to his or her personal situation – on the methods of coming into compliance, the DGFIP may initiate a tax audit.

## Is it possible to correct situations that do not fall within the scope of the Tax Compliance Department's remit?

The SMEC's remit is limited to the issues described above. Taxpayers who want to correct their tax situations voluntarily with respect to other issues can do so, just as before, with the appropriate tax department (Business Tax Department, or the Individual Tax Department for executives).

In this respect, Article 5 of the Government Reform Act for a Trust-Based Society (ESSOC) provides for a 50% reduction in the interest on arrears in the event a taxpayer voluntarily files an amended return, provided that the correction does not concern intentional breaches, and subject to the payment of the corresponding amounts.

FAQ:

Tax compliance

assessment by a trusted

third party

### What is a tax compliance assessment?

A tax compliance assessment is intended to bolster companies' legal and tax certainty. It consists of an audit of certain tax issues which is performed by a qualified third-party auditor who issues a certificate of conformity after, where appropriate, correcting any anomalies by filing an amended return.

### What companies may request an assessment?

Any company liable for business tax may make use of this scheme.

### Who are the third-party auditors?

At first, this service will be provided by statutory auditors, who normally audit financial statements. But the scheme may be subsequently extended to other professions following a review.

### Which areas will be audited?

The assessment is not a comprehensive tax review.

An assessment looks at simple tax issues for which there is generally convergence between tax law and accounting, such as depreciation, charges, compliance with VAT and withholding tax rules, compliance with the chronology of invoicing documents, and possibly provisions.

The third-party auditor will follow an audit process defined in cooperation with the tax authorities and professionals. The definition of this process is expected to be completed in the first half of 2019.

## What would be the benefits of this scheme for companies that use it?

At a time when tax issues are becoming increasingly complex, this scheme offers companies a means to reduce their tax risk on commonplace tax issues.

Companies could promote the fact that they use a third-party auditor to other entities they deal with (such as banks and customers), as well as to the DGFIP in order to access its support services (although this is not a mandatory step).

Finally, in the event of an audit and subsequent tax notice on a point validated by the third-party auditor, the company would be liable for fines or interest on arrears, and it would be reimbursed by the third-party auditor for the fees it paid and compensated for any damage suffered.

## FAQ:

# Improved discussions and appeals as part of tax audits

### How can sector-wide issues be better addressed?

A forum, meeting two to three times per year, and bringing together the tax authorities and employers' representative bodies, will be set up. It will identify and deal with issues that are common to an economic sector or a group of companies as soon as they arise, so that the same approach can be adopted for all companies in the event of an audit.

### How can appeals to higher administrative authorities be stepped up in the case of a dispute following an audit?

In the event of a dispute, taxpayers – both individuals and companies alike – may, in certain cases, refer the matter directly to the *département*-level contact located in the head offices of their Public Finances Directorate, particularly when the proposed adjustment provides for the enforcement of penalties, for example, in a case of a deliberate failure to comply or fraudulent practices.

### How can I be sure that a fresh look will be taken at my case?

As part of the appeal process, additional expertise distinct from that of the auditor is brought to bear on cases. From now on, the contact role will, where possible and provided the case justifies doing so, be entrusted to a bench, at least one of whose members shall not have previously been aware of the case (head of legal affairs, head of another tax audit division, head of tax management, etc.).

### What is the tax guarantee?

The tax authorities will now rule on those points examined during an audit that, having not given rise to any adjustment, can be considered to be in compliance. These points will be listed in the procedural documents, and taxpayers will be able to rely on the positions thus taken by the authorities during subsequent audits.

This new guarantee will increase taxpayers' legal certainty in the long run and bolster their management decisions.

## FAQ:

# The tax ruling action plan

### What is a tax ruling?

A tax ruling allows any taxpayer in good faith who so requests to benefit from a binding position taken by the tax authorities on the application of tax legislation in the particular situation at hand. It is an essential part of the General Directorate of Public Finance (DGFIP)'s efforts to promote legal certainty for taxpayers.

Each year, the DGFIP issues approximately 18,000 rulings under this procedure on actual situations presented by taxpayers. Most of them are issued by decentralised tax offices (*Département* Public Finances Directorates) and are delivered in a timely manner.

### What are the benefits of the tax ruling action plan?

In addition to tax rulings, which make up the vast majority of the requests processed by the DGFIP's decentralised offices, the most complex requests or those involving very large sums are handled by the central departments of the DGFIP. These are the requests that are the focus of the action plan.

For companies that feel the need for legal certainty with regard to a tax issue, the action plan contains several very tangible measures to provide access to rulings under the best possible conditions, so that companies can derive the full benefit of this procedure.

To this end, the plan aims to ensure greater clarity concerning the conditions for submitting requests for rulings and points of contact. It includes commitments in terms of deadlines, which are essential for doing business. Finally, the solutions adopted by the tax authorities when issuing rulings are better shared and distributed.

All of the necessary information and contact details are available at:

<https://www.impots.gouv.fr/portail/professionnel/le-rescrit-fiscal>

### Who is the contact person for filing a request for a tax ruling with the central offices of the tax authorities?

To make the procedure more accessible, we have streamlined how taxpayers' requests for rulings from the DGFIP central services are processed. This will provide greater clarity for users and will allow us to guarantee response times.

The DGFIP's Taxation Legal Department is now the single point of entry for ruling requests filed with the central tax authorities. The department assesses them and sends a response to the taxpayer. If it turns out that the issue requires fresh interpretation, the Legal Department forwards the file to the Tax Policy Directorate.

### What are the tax authorities' response time commitments when it comes to rulings?

The DGFIP has set itself the objective of answering at least 80% of requests for general rulings within three months, both centrally and in its decentralised offices.

This commitment will be the subject of regular public reports (see the DGFIP's latest annual report on its ruling activity, available online at [www.impots.gouv.fr](http://www.impots.gouv.fr)).

To streamline the assessment of all requests for general rulings, taxpayers can access a list of the primary information they need to provide at the above-mentioned website.

Finally, for the DGFIP's central offices to meet the response deadlines, taxpayers must append to their requests all the analytical elements at their disposal that may clarify the tax authorities' assessment, including internal and external legal opinions.

## How can I access rulings that have been issued?

The DGFIP publishes anonymised general rulings. For ease of access, they are available from the [www.impots.gouv.fr](http://www.impots.gouv.fr) website (13 rulings are currently online and 17 new ones are planned for the coming months).

To this end, a new series dedicated to publishing rulings, entitled "RES - Rescrits", has been created in the BOFiP-Impôts database of documents. As decisions are made, publications classified by tax or income category are added to the base and are the subject of a "What's New" link on the BOFIP-Impôts home page.

Conversely, all elements relating to a taxpayer's specific situation are covered by professional secrecy and the tax authorities cannot under any circumstances make public statements about them.

## If I disagree with the tax authorities' response, may I request a new assessment of my situation?

To bolster the guarantee of a quality response, and thus its legal certainty, taxpayers may request a review of the initial request in cases where they do not share the tax authorities' opinion. This review is handled by the National Tax Ruling Review Board.

## Are there specific rulings for certain situations?

The use of a specific ruling procedure allows taxpayers, particularly companies, to enjoy legal certainty with respect to the compliant application of tax regulations. The specific rulings expressly provided for by law are indicated below:

- "Extraordinary depreciations"
- "New companies"
- "Companies established in urban tax-free zones" and "Companies created or taken over in rural revitalisation zones"
- "Research tax credit"
- "Innovative start-ups" and "University start-ups"
- "Permanent establishments"
- "Definitions of certain categories of professional income"
- The "Sponsoring" ruling applied to certain organisations that receive donations
- "Value"
- "Abuse of rights"
- The advance transfer pricing agreement
- The ruling concerning the non-application of the anti-abuse clause with regard to the goals of a transaction, spin-off or partial contribution of assets.

FAQ:

## Assistance to companies dealing with tax authorities in other countries

### What is the purpose of these new schemes?

During a public consultation carried out following the Government Reform Act for a Trust-Based Society, companies expressed concerns about the complexity of international tax standards, which could lead to an increase in the risks of double taxation in a context of competing sovereignties, and the positions taken by certain foreign tax authorities.

To this end, regular meetings between representatives from the private sector and the services of the Tax Policy Directorate and the DGFIP will provide a forum for discussion of tax treaty-related issues and for exchanging views on possible changes.

In addition, a dedicated one-stop-shop where companies can report difficulties they have encountered internationally will enable information to be centralised at DGFIP level. This will be useful for identifying and implementing appropriate actions, which may involve marshalling the resources of several government departments.

### What sort of topics can be reported to this one-stop-shop?

Tax difficulties experienced by companies during operations abroad are particularly welcome. These may include, for example, difficulties related to interpreting legislation, implementation of a tax treaty, exercise of a treaty right, or difficulties in dealing with foreign tax authorities in transactions involving a company located in France.

## Who can contact the one-stop-shop?

Any company affected by the above-mentioned topics.

## Which department should I contact?

DGFIP tax attachés are assigned to the French embassies in Berlin (responsible for Germany), Brussels (Belgium, Luxembourg, Netherlands), London (Ireland, UK), Madrid (Spain, Portugal), Beijing (China, South Korea, Singapore), and Washington (Canada, United States, Mexico). They can be contacted directly by companies experiencing difficulties in those countries under the attachés' jurisdiction.

Otherwise, companies can approach the International Legal and Economic Advisory Unit (MEJEI) by e-mail at [mejei@dgifip.finances.gouv.fr](mailto:mejei@dgifip.finances.gouv.fr), or by telephone on (+33) 1 53 18 09 23.

## What actions are possible?

After assessing the situation, and if necessary in liaison with our on-the-ground diplomatic services, DGFIP may contact the counterpart foreign tax authority in order to jointly examine the facts of the case and the internationally-agreed standards with which the country in question has agreed to comply.

If dialogue between tax authorities does not resolve the issue, a file may be prepared for contacts at a political level, for example, during official trips.

## MEDIA CONTACT

Tel.: (+33) 1 53 18 45 03

[presse.macp@cabinets.finances.gouv.fr](mailto:presse.macp@cabinets.finances.gouv.fr)

[www.economie.gouv.fr](http://www.economie.gouv.fr)