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# France

## Company

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### Tax measures (deferrals, reductions)

- Companies can request from their tax office deferral, without penalty, of their next instalments of direct taxes (corporate income tax and payroll tax).
- If companies have already paid these taxes for March 2020, they can either oppose the Single Euro Payment Area (“SEPA”) direct debit at their bank or request a refund from their tax office.
- Self-employed workers can vary the rate and instalments of withholding at source at any time. They can also defer the payment of withholding at source instalments on their professional income.
- It is possible to suspend monthly payments of corporate real property tax (the so-called “CFE”) or land tax. The remaining amount will be deducted from the balance without penalty.

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### Social Security measures (deferrals, reductions)

- The third Amending Finance Law 2020 provides for the following:
  - an exemption from a portion of the Social Security contributions over the period from 1 February 2020 to 31 May 2020 for companies with fewer than 250 employees:
    - operating in certain sectors (such as tourism, events, sports, culture, and air transport); or
    - whose activity is closely linked to the above-mentioned sectors (e.g. passenger transport, wine growing, fishing, and laundry) and who have experienced a very significant decrease in turnover. A Decree of 1 September 2020 stated that companies should have suffered an 80% decrease in turnover during the containment period compared to the same period in 2019 in order to benefit from this exemption. Companies can also benefit from these exemptions when the decrease in turnover represents 30% of the turnover in 2019;
  - an exemption from a portion of the Social Security contributions over the period from 1 February 2020 to 30 April 2020 for companies with less than 10 employees that do not operate in the sectors mentioned above but have been subject to administrative closure, further to an order of 14 March 2020, during the period of containment;
  - for outstanding Social Security contributions, companies can receive aid for the payment of Social Security contributions corresponding to 20% of the income from the activities taken into account for the calculation of the contributions and declared by the employer between: (i) 1 February 2020 and 30 April 2020 (for companies with fewer than 10 employees which do not operate in the sectors mentioned above); or (ii) between 1 February 2020 and 31 May 2020 (for companies with fewer than 250 employees which

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operate in the sectors mentioned above). Until 31 October 2020, companies can apply for aid retrospectively and any amounts granted will be deducted from Social Security contributions due in the following months; and

- companies with fewer than 250 employees on 1 January 2020 who cannot benefit from the exemption scheme mentioned above, but who have suffered a decrease in turnover of at least 50% over the period from 1 February 2020 to 31 May 2020 compared to the same period in 2019 will be able to benefit from a reduction of up to 50% of their Social Security contributions if they have applied for contribution deferrals.
- Note that under the Decree of 1 September 2020, the exemptions and aid received under the third Amending Finance Law 2020 are capped at €800,000 in total at any given time.
- Under the 2021 Social Security Financial Law:
  - an exemption from some of the Social Security contributions is provided for:
    - companies with fewer than 250 employees operating in certain sectors (e.g. tourism, events, sports, culture, and air transport), which were either forced to close by the Government or which suffered a 50% decrease in turnover compared to the same period in 2019; and
    - companies with fewer than 50 employees that do not operate in the sectors listed above but which were forced to close by the Government;
  - the exemption will last a maximum of three months and will cover Social Security contributions due for periods of employment:
    - beginning on 1 September 2020 for employers located in areas that were affected by the curfew which lasted from 17 October 2020 to 30 October 2020 (which applied to 54 French departments); or
    - beginning on 1 October 2020 for other employers;
  - companies will receive aid to help them pay any further Social Security contributions due. Such aid will equal 20% of the income which is used as part of the calculation for Social Security liabilities.
  - All companies were allowed to defer all or part of their employee and employer Social Security contributions which were due on 5 or 15 December 2020, subject to an application to the Social Security Authority (URSSAF) 48 hours prior to the due date. If the URSSAF do not respond within 48 hours, the application is deemed to be granted. No penalties were or will be applied in relation to these deferrals. Details about any deferrals available for future Social Security contributions will be provided by the URSSAF in due course. A deferral is also available for supplementary retirement contributions until 25 December 2020, using the same procedure as for the Social Security deferrals.

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- For self-employed workers, Social Security contributions that were due on various dates between March 2020 and August 2020 have not been levied and will be deferred until a later date, which has not yet been confirmed. Levies have in principle resumed from September 2020. However, Social Security contributions due in November 2020 have not been levied and will be deferred until a later date, which has not yet been confirmed, due to the new containment order (see “Travel” section below). The same will apply to Social Security contributions for December 2020.
  - Self-employed workers may also request, in relation to their Social Security contributions: (i) payment extensions; (ii) an adjustment of their contribution schedule; (iii) the intervention of social action (i.e. payment by the URSSAF of part or all of the contributions due (as a last resort only)); or (iv) the allocation of exceptional financial aid.

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**Profit sharing schemes**

- The payment deadline for mandatory and voluntary profit sharing schemes has been extended from 30 April 2020 until 31 December 2020.
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# France

## Employer

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### **Sick pay (eligibility, obligations to pay, recovery from Government)**

- Individuals who: (i) are suffering from COVID-19 (including employees and self-employed persons); or (ii) have been quarantined due to actual or potential contact with COVID-19 may be eligible for daily sickness benefits (without a waiting period).
- In addition to the indemnities paid by the French Social Security, employees who are subject to a “work stoppage” due to COVID-19 (i.e. unable to work because they have been infected with COVID-19) are entitled to additional compensation from their employer, to compensate them for any loss of salary. A Decree of 16 April 2020 provides that, for the period from 12 March 2020 to 30 April 2020, these employees will receive aggregate compensation equal to 90% of the remuneration they would have received had they continued to work.
- Under the Amending Finance Act 2020 and a Decree of 29 August 2020, an employee who is unable to continue working for one of the following reasons must be placed on “partial reduction of activity” (see “Reduction in pay and/or hours” section below):
  - the employee is one of the vulnerable persons at risk of developing a serious form of COVID-19 listed in a Decree of 10 November 2020; or
  - the employee is facing childcare constraints due to the closure of a childcare facility, a school, or a college, or when the child has been in contact with a person suffering from COVID-19.
- This measure applies from 1 May 2020, regardless of the start date of the work stoppage and shall apply until 31 December 2020 at the latest.
- The employer must make a request for partial reduction of activity (see “Reduction in pay and/or hours” section below), including where the employer company does not itself benefit from the partial reduction of activity scheme (i.e. where it has not been closed or reduced its working hours under the scheme).

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### **Enforced leave / use of holiday (paid vs unpaid)**

- In exceptional circumstances, employers may change the order and start date of employees’ holiday less than one month before the planned start date. Therefore, the employer may move an employee’s scheduled holiday to another period in the future, to cover the 14-day period of quarantine. However, subject to the below, if the employee has not scheduled any paid holidays, the employer cannot force the employee to take them.
- Employers may require employees to take up to six days of paid holiday or change the date of up to six days of scheduled paid holiday on at least one full day’s notice, provided that an in-house or an industry-wide collective agreement allows this. Employers may require employees to take this holiday in one block or in several periods without the employee’s consent.

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- Some industry-wide agreements have already been concluded to allow companies to make use of this emergency measure (e.g. in the metallurgy, automotive, and insurance broking industries). For example, the collective agreement concluded in the metallurgical industry business sector provides that employers who are members of an employers' union that has signed the agreement may require employees to take up to six days of paid holiday, subject to a notice period of two working days during the containment period (extended to five working days after the end of the containment period).
  - An employer may require its employees to take up to 10 business days as rest days (i.e. days of reduction in working hours, days of rest affected on the employee time savings account, or days of rest of employees subject to a day-per-year scheme) or change the date of rest days already scheduled within the limit of 10 business days on one full day's notice, even in the absence of a collective agreement.
  - Any use of these emergency measures should be immediately reported to the employee representative bodies of the company which shall deliver a non-binding opinion on the measures within a one-month period.
  - The employer may also prevent a couple working in the same company from taking leave at the same time if the presence of one of the spouses is crucial for the business.

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### Temporary layoffs

- No specific temporary layoff measures have been put in place at this time.
- Employers have an obligation to provide their employees with work. If they cannot provide sufficient work, their employees remain eligible for full pay.
- However, in specific circumstances, an employer may apply for a partial reduction of activity scheme ("*activité partielle*") subsidized by the State and the "*Union nationale interprofessionnelle pour l'emploi dans l'industrie et le commerce*" ("UNEDIC") (see "Reduction in pay and/or hours" section below).

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### Reduction in pay and/or hours

- Unilateral reduction of pay or hours by companies is prohibited.
- Businesses whose activity is affected by the COVID-19 pandemic may be eligible for the partial reduction of activity scheme which is implemented by reducing employee working time or closing all or part of the company.
- Except for protected employees, employee consent is not required. However, an Ordinance of 26 March 2020 reinforces the powers of the company vis-à-vis protected employees: partial activity may be compulsory for a protected employee without their employer having to obtain their consent when it affects all employees of the company, establishment, service, or workshop to which the protected employee is assigned or attached.
- Foreign companies with no place of business in France (i.e. where no company or branch is registered with the French Commercial Registry) can benefit from the partial reduction of activity scheme for any of its employees working permanently in France who are registered with the French Social Security system.

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- Requests must be submitted on <https://activitepartielle.emploi.gouv.fr/> within 30 days of the partial reduction of activity, with retroactive effect, and implementation may require consultation with the company's Social and Economic Committee (the "SEC").
  - The application must specify the reasons justifying recourse to the partial reduction of activity scheme (e.g. administrative closure of the establishment, decrease in activity, supply difficulties, or the impossibility of implementing the preventive measures necessary for the protection of the employees).
  - An application for the scheme must set out its foreseeable duration which, for an initial application, may be up to 30 June 2020.
  - If the company has already had recourse to the partial reduction of activity scheme during the 36 months preceding its application (initial or renewal, whether due to COVID-19 or not), it must subscribe to specific commitments specified in its application which will be definitively fixed by the labour administration.
  - The maximum total duration of the administrative authorisation (including renewals) is in principle six months, but this duration has been extended to 12 months by Decrees dated 25 March 2020 and 31 March 2020.
  - During the partial activity period, the company will pay employees (whose employment contract is suspended due to the company's closure) 70% of their monthly gross remuneration. The State and Unemployment Fund will co-finance reimbursement of all or part of this to companies at €7.74 per hour (for companies with fewer than 250 employees) or €7.23 per hour (for companies with more than 250 employees).
  - A Decree dated 25 March 2020 increased the reimbursement allowance to 70% of gross hourly wage limited to four and a half times the minimum wage schedule (€4,847 per month for a full time employee) with a cap of 1,607 hours per employee for 2020. This hourly rate cannot be less than €8.03.
  - Under a Decree dated 29 June 2020, certain conditions for the partial activity allowance have been modified. The state reimbursement allowance has been reduced to 60% of gross hourly wage, capped at four and a half times the minimum wage schedule (except for employers in sectors subject to special statutory or regulatory restrictions due to the COVID-19 pandemic (e.g. tourism)). The indemnity paid to the employee, the treatment of this indemnity within the applicable social security framework, and any supplement paid by the employer remain unchanged. A Decree dated 30 October 2020 provides that these rules will apply until 31 December 2020.
  - The Law of 17 June 2020 has created an additional specific partial activity scheme. This scheme makes it possible to ensure, pursuant to an in-house collective agreement or a unilateral decision (i.e. where the employer's decision is solely based on the specific provisions of an industry-wide collective agreement) which is validated by the labour administration, the continuation of employment relationships in companies faced with a lasting reduction in activity, where a company's placement in the scheme does not jeopardise its survival. In exchange for Government support, the employer undertakes to maintain the

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employment of the affected employees. A Decree of 28 July 2020 provides further details, including the following:

- the scheme is implemented retroactively from 1 July 2020 and will be available until 30 June 2022;
  - the scheme enables the Government to support employers experiencing a long-term decline in activity for six months (renewable up to two years), in exchange for the company committing to maintain employment relationships;
  - the industry-wide or in-house collective agreement must define the start date and duration of the scheme, the activities and employees to which the scheme applies, the maximum number of non-working hours, the commitments made (in terms of employment and training), and the procedures for informing the employee representatives;
  - the maximum number of non-working hours may not exceed 40% of working time (or 50% in exceptional circumstances). Therefore, it would not be possible to benefit from the scheme if the company's activity ceases completely; and
  - employees will receive from their employer 70% of their gross hourly wage capped at four and a half times the applicable minimum wage. Pursuant to a Decree of 29 September 2020, the Government will pay the employer: (i) 70% of the amount paid to the employee, if the company operates in one of the sectors most affected by COVID-19 (as set out in the Decree of 2 November 2020); or (ii) 60% of the amount paid to the employee for all other companies.
- Note that an employee may not be placed in partial activity under both the classic partial reduction of activity scheme and the additional specific partial activity scheme. An employer may, however, make use of both schemes for different employees.
- Pursuant to a Decree dated 30 October 2020, the following rules regarding the classic partial reduction of activity scheme will be applicable as of 1 January 2021:
- the indemnities paid to employees will be reduced to 60%;
  - the state aid will be reduced to 36% of the compensation paid to employees;
  - companies will be able to benefit from the scheme for an initial period of up to three months, but this can subsequently be renewed for up to a maximum overall period of six months;
  - the SEC should be informed on the expiry of each authorisation and, where appropriate, prior to each application for renewal of authorisation; and
  - employers are recommended to encourage employees who are placed on the partial activity scheme to take paid leave while on the scheme. However, employers cannot force employees to take paid leave.

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- Under an Ordinance of 14 October 2020, the rate of: (i) the indemnities paid to employees placed in the classic partial reduction of activity scheme; and (ii) the state aid paid to employers, will vary according to the employer's sector of activity. These variable rates will apply from 1 November 2020 until 31 December 2020.

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### **Working hours and Sunday work**

- Certain companies (to be specified by a forthcoming decree) may depart from public policy rules on maximum daily and weekly working hours and daily rest periods. However, the weekly rest period of 24 consecutive hours per week remains unchanged.
- Companies in “sectors of activity particularly necessary for the security of the Nation and for the continuity of economic and social life” (which will be fixed by decree), may also derogate from the principle of Sunday rest and have their employees work on Sundays.
- Any use of these exemptions should be immediately reported to the employee representative bodies (but also to the labour administration for the working time exemption). The employee representative bodies will deliver a non-binding opinion on these exemptions within a one-month period.

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### **Terminations**

- Redundancies are not prohibited, but the Government encourages companies to implement partial activity as a remedy.
- If redundancies must be implemented, the company must comply with all French redundancy rules, including a valid economic justification, research of redeployment positions, and payment of severance indemnities. Notably, in the event of an ongoing economic dismissal procedure, the confinement situation will make it difficult, if not impossible, to comply with the prior internal redeployment obligation. If the company decides to make redundancies in this context, affected employees may seek damages in the labour court for non-compliance with this obligation.
- The Government has not announced any measures relating to ongoing dismissals. However, it is very likely that the ongoing procedures may be delayed due to lockdown.

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### **Professional elections of Social and Economic Committee**

- Ongoing professional elections of a company's SEC have been suspended from 12 March 2020 until 31 August 2020. An Ordinance of 17 June 2020 (which is separate from the Law of 17 June 2020) makes this suspension mechanism more flexible, by allowing employers to change the date on which the suspension of elections ends, provided that the chosen date is between 3 July 2020 and 31 August 2020.
- Professional elections that did not start on 12 March 2020 were postponed. The election process must start between 24 May 2020 and 31 August 2020; however, the start date can be set by the employer within this period.
- Current mandates are then automatically extended during the sanitary urgent status and until the proclamation of the results of the first or, where appropriate, second round of professional elections.



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## Employee representative bodies

- Pursuant to an Ordinance of 25 November 2020, during the sanitary urgent status, the use of videoconferencing was allowed beyond the normal legal limit of three meetings per calendar year for any meeting of a company's SEC, provided that elected members were informed. It was also possible to use audioconferencing. Where videoconferencing or audioconferencing was not possible, meetings of the employee representative bodies could be held by instant messaging.
  - A company's SEC may carry out information and consultation requirements in relation to emergency measures regarding paid leave, working time, and rest days taken by the employee at the same time as (and no longer prior to) the implementation of such measures.
  - An Ordinance of 15 April 2020 adjusts many deadlines under collective bargaining agreements to reduce the length of the procedure, where the collective bargaining situation relates to the economic, financial, and social consequences of the COVID-19 pandemic. The Ordinance of 17 June 2020 referred to above now provides that these deadlines will apply to agreements concluded up to 10 October 2020.
  - A Decree of 2 May 2020 defines the applicable shortened consultation period of the SEC, in particular when a company decides to restart its business at the end of the lockdown period. The Decree provides that the SEC must give its opinion within a period which is reduced: (i) to eight days, in the absence of the involvement of an expert; and (ii) to 12 days, if an expert has been involved. The agenda must be communicated to the members of the SEC no later than two calendar days before the meeting (instead of the usual three days). Under the Decree, these shortened consultation periods apply only to employer decisions "which are intended to deal with the economic, financial, and social consequences of the spread of the COVID-19 epidemic". However, the above does not apply to the following consultations: (i) redundancies of at least 10 employees within the same 30-day period; (ii) the conclusion of a collective performance agreement; and (iii) recurrent consultations provided for by the Labour Code. These shortened consultation periods are applicable until 23 August 2020.
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# France

## Workforce

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### Teleworking

- The new version of the national protocol for health and safety dated 29 October 2020 indicates that employees should be asked to work from home whenever possible. The employer can make remote working mandatory for employees who refuse.
- For jobs that are not eligible for teleworking, it is essential to respect social distancing rules: limiting meetings to what is strictly necessary, limiting grouping employees in small spaces, implementing team rotation, cancelling or postponing non-essential travel, and ensuring that the workplace “barrier” measures (see “Preventive actions” section below) are respected.

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### Travel (business and personal)

- Business travel: as of 30 October 2020, only journeys between an individual's place of residence and their place of business (where teleworking is not possible), or business trips that cannot be postponed, are authorised. These journeys must be justified by a certificate issued by the employer. The certificates to be completed by the employer are available on the French Ministry of the Interior's website [here](#).
- Personal travel: as a consequence of the containment order dated 29 October 2020 (the “Containment Order”), travel is only allowed for: (a) shopping; (b) healthcare; (c) childcare or providing assistance to the vulnerable; (d) limited exercise, alone; or (e) to meet the needs of pets. An individual must fill in a certificate each time they leave their home, which is available [here](#).
- On 24 November 2020, the French President announced that the Containment Order may be replaced by a curfew on 15 December 2020 (the “Curfew”). If enacted, the Curfew will apply to all the French territories from 20:00 to 6:00, except on the evening of 24 December 2020.
- Travelling to France: with regard to France's borders with European countries, the Government announced that the restrictions would be lifted from 15 June 2020. Borders with non-EU countries are gradually reopening as from 1 July 2020. At this stage, employees' business travel should not be impacted by the Containment Order, as there are no new restrictions on travel within France or the French territories.

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### Preventive actions (reception policy, public interactions, management of infected employees)

- Precautionary measures: in order to protect employees and the public, it is recommended to implement “barrier” measures such as regular hand washing, the use of hand sanitiser, the installation of a one-metre courtesy zone, the cleaning of high-touch surfaces with an appropriate product, and regular ventilation of rooms. On 28 April 2020, the Government asked companies to provide their employees with masks, if they have the means to do so. All precautionary measures are set out in the national protocol for health and safety available on the Labour Ministry website (available [here](#)). In light of rising temperatures in France during the summer months, the

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Labour Ministry has adopted recommendations on the use of cooling fans and air conditioners during the COVID-19 pandemic (available [here](#)).

- On 23 July 2020, the Labour Ministry recommended that companies begin stockpiling enough masks to last 10 weeks.
- From 20 July 2020, the wearing of masks has become compulsory in enclosed public spaces pursuant to a Decree of 10 July 2020.
- From 1 September 2020, it is also mandatory for employers to require their staff to wear masks in shared work places (e.g. open spaces, meeting rooms and corridors) under the national protocol for the resumption of activity (see “Teleworking” section above). As an exception, employees do not have to wear the mask whilst alone in their office. Wearing a mask does not exempt the employees from complying with social distancing and “barrier” measures (see “Preventive actions” section above).
- A person infected with COVID-19 must remain at home and as such, benefits from a work stoppage and daily Social Security benefits without waiting periods. The persons in charge of cleaning the workplace must then be equipped with single-use gowns and household gloves. The cleaning of floors and surfaces must be carried out according to the strict conditions mentioned in the Labour Ministry Q&A (<https://travail-emploi.gouv.fr/actualites/l-actualite-du-ministere/article/coronavirus-questions-reponses-pour-les-entreprises-et-les-salaries>).
- On 6 October 2020, the Labour Ministry published a guide for good practice for employers. This guide provides that if a “cluster” appears in the company (i.e. if three employees have tested positive for COVID-19 within seven days), the employer must alert the regional health agency (ARS) and the labour inspector. The employer must then follow any instructions and notify the SEC of the cluster. However, the identity of the COVID-19 positive employees should not be notified. Under no circumstances shall the employer: create a list of employees who have tested positive for COVID-19; publish the names of any such employees; keep a record of an employee’s COVID-19 positive result result(s); or force a COVID-19 positive employee to come to work.
- The new version of the national protocol for health and safety dated 29 October 2020 provides that the employer must inform the employee of the existence of the “TousAntiCovid” smartphone application and encourage the use of the application during working hours. However, employers cannot require employees to use the application.
- In addition to the testing facilities organised by the health authorities, employers can now offer optional COVID-19 testing to consenting employees. To this end, a list of authorised tests (found in pharmacies), together with any conditions of use, has been made available by the health authorities ([here](#)). Testing must be paid for, in full, by the employer and carried out so as to guarantee proper performance and the strict preservation of confidentiality. In particular, no results may be communicated to the employer or its employees. An Order dated 16 November 2020 states that employers organising COVID-19 tests should only do so where they suspect a cluster of infections or particularly active circulation of the COVID-19 virus. The employer must declare its intention to carry out COVID-19 tests to the Prefect (“*Préfet de Région*”) prior to

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carrying them out. These tests must also be carried out by a health professional (doctor, occupational physician, nurse, pharmacist or other authorised medical staff), with a strict protocol adhered to. This means: recording the employee's consent; ensuring that the test can be carried out confidentially; and providing facilities for handwashing/sanitising. Any test results must be recorded on the same day in the computer system set up by the Health Ministry.

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### **Employees with children or older dependants**

- From 1 September 2020, employers are able to place employees with childcare constraints in the classic partial reduction of activity scheme (see "Sick pay" section above). Only one parent per household can benefit from this measure.

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### **Adaptation of Macron Merit Premium**

- The regime of the "Macron Merit Premium" ("*prime exceptionnelle de pouvoir d'achat*") set up by the Law of 24 December 2019 has been adapted to allow employers to reward employees who have worked during the period of containment.
- The payment of the Merit Premium of up to €1,000 per employee is no longer subject to the existence of a voluntary profit sharing scheme ("*accord d'intéressement*") within the company. However, the amount of the Merit Premium can be increased to €2,000, provided that the company has implemented a voluntary profit-sharing scheme.
- The Merit Premium can be paid up until 31 August 2020 (instead of 30 June 2020).
- For the year 2020, a voluntary profit sharing scheme may be concluded up until 31 August 2020 without calling into question the tax and social exemptions, where it is entered into after the first day of the second half of the period of calculation. The scheme may be implemented for a period of between one and three years.
- The beneficiaries of the Merit Premium will be either the employees present at the date of the payment or those present at the date of submission of the collective agreement to the labour administration (or the date of signature of the unilateral commitment).
- The amount of the premium may be adjusted according to working conditions linked to the COVID-19 pandemic. This allows the company to increase the premium for employees who have to work in the company's premises and suffer difficult conditions in work.

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