



**QUESTIONS / ANSWERS CONCERNING SOME CLARIFICATION  
TAX PROVISIONS OF THE FINANCE ACT FOR  
FISCAL YEAR 2020**

## I- GUIDELINES FOR INCOME TAX

**measure concerning the redevelopment of the planned incentive scheme for industrial companies**

### QUESTION:

- **Is an industrial company generates more than net profit of 100 million dirhams can benefit from the progressive rate of 28% for the lower amount to 100 million dirhams and 31% for the rest?**

### ANSWER :

LF 2020 excluded from the rate of 28%, the companies engaged in industrial activity whose net income is equal to or greater than one hundred million (100,000,000) dirhams. Thus, these companies will be subject to progressive rates of the scale with the application of the marginal rate of 31% for all of their income and are not entitled to the 28% rate for the portion of the earnings of less than one hundred million (100 000 000) dirhams.

### QUESTION:

- **What is the treatment of industrial activities referred to Decree No. 2-17-743 fixing the activities of industrial companies benefiting from the temporary exemption from corporate tax**

### ANSWER :

It should be clear that the aforementioned rate of 28% applies to the activities listed in Decree No. 2-17-743 meet the definition of industrial activity whose criteria are expressly provided by Article 19- IA-1 of the CGI. These include criteria relating to the nature of the activity to be for industrial use and is in the **manufacturing or**

**transformation** directly tangible personal property for an **Plant, machinery and tools, whose role is paramount.**

Thus, an industrial company is eligible for this rate when the activity is first to manufacture or transform personal property as an industrial process where manual labor is subsidiary.

## II- GUIDELINES FOR INCOME TAX

**Measures relating to the uniform 50% deduction limit application of net taxable salary scheduled for premiums or contributions relating to pension insurance contracts**

### QUESTION:

- **Can a taxpayer may benefit from a partial exemption under the benefit provided under a pension insurance contract, the contributions were partially allowed as deductions from the total taxable income?**

**ANSWER :**

Supplementary pensions for which contributions were accepted partially or fully deducted in determining net taxable income, are not exempt from IR

**QUESTION:**

**What is the scope of the new tax scheme for supplementary pension products introduced by the 2020 Finance Act?**

**ANSWER :**

The tax treatment provided by the CGI, applies generally and uniformly to all supplementary pension products, both marketed by insurance or other bodies corporate. This plan is expected by the following articles:

- **Article 28-III of the CGI:**

This article gives the taxpayer may deduct the premiums or contributions relating to pension insurance contracts subscribed individually or collectively as a group insurance contracts for a period equal to at least eight years, with companies of insurance established in Morocco and whose benefits are provided to beneficiaries from the age of 50 years old, within the limits of:

- 10% of the total taxable income for taxpayers with income other than earned income;
- 50% of taxable net pay regularly during the activity for taxpayers only have wage income;
- In either of the above limits, taxpayers have earned income and income under other categories.

It is appropriate to remind the provisions of the FLA for 2020 are expected in the uniform application of wage income, the 50% limit referred to above for all pension insurance contracts, both before and subscribed after 1<sup>ier</sup> January 2015.

- **Article 57-9 of the CGI**

Supplementary pensions, whose contributions were not allowed as deductions for determining taxable net income, remain exempt from IR.

- **Article 59-II-A**

To encourage savings and retirement lighten reporting requirements for employees, CGI has enabled the employer to make the deduction of contributions related to a supplemental pension contract, like the basic pension, providing and the employee with a salary alone, to take his statement of income to request the return of RI under the supplementary pension.

**QUESTION:**

**An organization can it shirk applying the above tax provisions, that the ground is not considered an insurance company and is therefore not subject to the Insurance Code?**

**ANSWER :**

All pension funds as well as banks and insurance companies that offer their members of retirement savings products are subject to the aforementioned tax regime. As such, any pension agency is required to apply the provisions of the CGI in the matter, to the extent that it sells that kind of savings products

**Measures relating to the setting of a reduction on the taxable base corresponding to revenue generated by mobile payment, by individuals with incomes professionals committed under the regime of the simplified net income (RNS) or that of the flat benefit (BF)**

**QUESTION:**

- **Is the reduction of 25% in respect of sales generated by mobile payment is combined with the 15% rebate to taxpayers who adhere to approved accounting management centers?**

**ANSWER :**

To the extent that the budget law for 2020 does not include any restrictive provision of this law, the reduction of 25% in respect of sales generated by payment can be combined with the 15% rebate to taxpayers who adhere to approved accounting management centers. It follows that the two benefits are cumulative.

**Measures relating to the exemption of sales transactions of real property occupied by its owner as a principal residence, before the expiry of the 6 year period**

**QUESTION:**

- **During a partial disposal of a building: the 4,000,000 DH ceiling must be applied by reference to the part of the sale price or sold on the total price of the property?**

**ANSWER :**

For the benefit of the exemption under Article 63-II-B of the CGI, the building's sale price or part of a main residence title to occupied building should not exceed four million dirhams.

The exemption is granted by reference to the building's sale price and not by reference to the share in joint possession of the person concerned.

**QUESTION:**

- **In the case of a sale on a property belonging to the three joint owners and if these all choose to commit to reinvest the amount of transfer in the acquisition of a new main house, which will be handled to this if only one of the three joint owners meet the conditions for exemptions and reinvested its part in the acquisition of a principal residence?**

**ANSWER :**

Pursuant to Article 63-II-B of the CGI, the benefit of this exemption depends reinvestment **total** the sale price in the acquisition of a building to the main house. Therefore this joint interest holder can not claim the exemption in question benefit since the reinvestment of the sale price is only carried out partially.

In general, it should be noted that the reinvestment price is a tax rule enacted as such without express exemption. Therefore, all cases where this rule is not respected, are not eligible for the aforementioned exemption.

**QUESTION:**

- **The conclusion of an agreement of sale / booking contract can it be considered to meet the deadline of 6 months?**

**ANSWER :**

The law expressly provides for the taxpayer must agree to reinvest the sale price in the acquisition of a building to his main residence in a period not exceeding 6 months from the date of disposal of the first building to the main house.

This commitment must be translated by a new acquisition agreement, not a promise of sale that may not result in the effective implementation of the acquisition transaction.

**QUESTION:**

- **Is it possible to invest in a building plot, for a main house?**

**ANSWER :**

In the words of the law, the acquisition must be for a building to the main house. Therefore, the land is not by its nature, a building to the main house, is not eligible for the exemption in question.

**QUESTION:**

- Does the sale price can be reinvested in the acquisition of property that will be used as a principal residence for parents or children?

**ANSWER :**

The extension of the appropriation of property acquired ascendants or descendants is not required by law. Therefore, the benefit of the exemption in question is subject to the occupancy of the new housing by the taxpayer himself as main qu'habitation.

**Measures relating to the permanent tax farm income at the rate reduced by 20%**

**QUESTION:**

- The non-discharge rate of 20% there is a tax ceiling?

**ANSWER :**

To account for the tax ceiling introduced by the LF 2020, the amount of tax due is determined as follows:

- Applying the scale of the IR rate under the said total taxable income;
- The overall IR thus determined must be vented between farm income and earned income;
- Apply farm income rate of 20%;
- Compare the amount of the corresponding farm income tax determined according to the scale of the IR rate with that obtained by applying to such income rate of 20%;
- The tax obtained by applying the 20% rate should be the ceiling of the taxation of agricultural income;
- The final IR consists of tax corresponding to farm income, after deduction of the CM and the corresponding tax professional income.

**Measures regarding the increase in the rate of the reduction applicable under the gross wages in professional sports from 40% to 50%**

**QUESTION:**

- Sports staff (coaches, educators, physical trainers, technical staff, administrative staff) they can benefit from this allowance?

**ANSWER :**

For professional sports, any sport means that practices against remuneration, principally or exclusively, a sport to participate in sports competitions or events.

Therefore, coaches, educators, physical trainers, technical staff and administrative staff are excluded from this allowance.

**Measures relating to the amendment because the land IR generator**

**QUESTION:**

- **How can taxpayers justify non collection of overdue rent?**

**ANSWER :**

The administration can, within the control of declarations, verify the fairness of the uncollected rent. To this end, the taxpayer could collect revenue in question must be able to justify by means of any evidence before it, the procedures for administrative or judicial carried out to collect the rents due and justify that these approaches were unsuccessful.

**QUESTION:**

- **What is meant by "administrative procedures or judicial" to be made by the taxpayer against defaulting tenants?**

**ANSWER :**

Law No. 67-12 governing contractual relations between lessors and lessees of premises used for residential or business use provides that in case of default of rent and related fees due, the landlord may enter the president of the trial court for authorization to send a notice to pay rent. This process is among other evidence of non rent collection in question.

**QUESTION:**

- **Is the taxpayer required to make its request option for spontaneous payment of IR every year?**

**ANSWER :**

When it comes to the same rental agreement and failing stated otherwise, the aforementioned optional application is to be filed by the taxpayer **once**,

In the case of change of tenant, the taxpayer is required to make a further application, since it is no longer the same tenant (legal entity or physical person taxed according to the FBR plan or RNS).

In order to avoid regularization of office to which the administration could proceed if the taxpayer wishes to waive his option demand, it belongs to him to send a letter of information to the tax in question in which he asks the 'cancellation

Option requests for spontaneous payment and expresses its willingness to be taxed in respect of its property income, by deduction at source **in respect of year N + 1**.

In this case, a copy of the duly sealed request for the services of relevant taxes, shall be returned to the tenant (the corporation or the individual taxable according to the FBR plan or RNS), so it can operate restraint in question.

**Measures on the establishment of an incentive system for newly identified taxpayers who were active in the informal sector**

**QUESTION:**

- **What is the date to be taken as the beginning of activity for the registration of those taxpayers to the role of business tax? And do they benefit from the five-year exemption under the tax?**

**ANSWER :**

The date chosen as the beginning of activity in the identification and registration to the role of business tax is the date filled in by the taxpayer in the said last tax. Ce identification and registration dossier will benefit from 'five-year exemption from business tax under the conditions of common law.

**QUESTION:**

- **Are these taxpayers will benefit from the exemption from CM?**

**ANSWER :**

Taxpayers who identify for the first time benefit from all the advantages provided by the CGI in accordance with Article 247 of the CGI-XVIII.

**QUESTION:**

- **These taxpayers can they opt for spontaneous regularization under Article 7 of the FLA for 2020 and benefit from the advantages granted?**

**ANSWER :**

If these taxpayers performing a professional or agricultural activity, they can benefit from the above regulation, subject to the conditions laid down in that article.



**Die on the regularization of the tax situation of taxpayers who have not filed their annual statement of overall income related to property income for non-prescribed previous years**

**QUESTION:**

- **Do taxpayers have other income may correct their tax affairs under their land back?**

**ANSWER :**

Taxpayers with other income can also benefit from spontaneous regularize their tax situation since it is a regulation which is under a special regime and transient.

**III- IN THE FIELD OF VALUE ADDED TAX**

**VAT exemption in and import of vaccines and drugs for the treatment of fertility and multiple sclerosis**

**QUESTION:**

- **Pharmaceutical companies that sell VAT exemption drugs or vaccines, can it benefit from the refund of VAT credit?**

**ANSWER :**

Pursuant to the provisions of Articles 92 (I-19 °) and 123-37 of the CGI, as amended and supplemented by the provisions of the LF 2020 are exempt from VAT with right of deduction, anticancer drugs, drugs viral hepatitis B and C, drugs for the treatment of diabetes, asthma, heart disease, disease of acquired immunodeficiency syndrome (AIDS) and disease of meningitis vaccines, drugs the list is fixed by a joint order of the Minister for health and the Minister for Finance and are for the treatment of fertility and the treatment of multiple sclerosis and drug whose manufacturer-tax price fixed by regulatory exceeds 588 dirhams.

To ensure complete tax exemption of said drugs in order to erase any carryover of tax in prices, the legislature granted to companies that manufacture or sell these products the right to reimbursement of input tax, which will allow recovery VAT charged on elements of cost of goods sold exempt from said tax.

Thus, in accordance with Article 103 of the CGI -1, if the volume of the tax due does not allow the full imputation tax charged on elements of the cost of medicines and vaccines exempt pharmaceutical companies may claim the surplus in accordance with Article 103 of the CGI and in the manner defined by Article 25 of the decree for the implementation of VAT.

**Measures relating to the clarification of the concept of the services concerned by the VAT exemption threshold of 500 000 DHS**

**QUESTION:**

- **What is the fate of the manufacturers and service providers, corporations, have a turnover of less than five hundred thousand (500,000) dirhams and who have not filed for this purpose, their VAT returns for the years 2018 and 2019?**

**ANSWER :**

With the entry into force of the LF 2020 service providers and manufacturers, corporations, are necessarily subject to VAT, whatever the realized turnover.

Therefore, those manufacturers and service providers are now required to file their VAT return in respect of transactions carried out from 1<sup>st</sup> January 2020. It is specified that the natural or legal persons exercising the professions referred to in Article 89 (I-12 °) of the CGI are not affected by the liability threshold.

**IV- CONCERNING PROCEDURES AND CONTROL**

**Institution relative measure of a legal framework for the oral and contradictory exchange between the administration and the audited taxpayer**

**QUESTION:**

- **Does the taxpayer may previously have the object points of the oral exchange and contradictory?**

**ANSWER :**

It should be recalled that the control is based on an interactive approach when auditing the accounting and tax data. Thus, the oral exchange and contradictory is necessarily committed by the inspector throughout the course of the audit to the taxpayer requesting explanations for inconsistencies or omissions as well as on items likely to object recovery.

The points that the inspector mentioned in the draft of the adjustments notification letter, the subject during the meeting held at the end of control with the different hierarchical levels of a debate allowing taxpayers to present arguments in order to make its position. This is an important phase of control because it allows not to notify recovery proposals that the administration deems sufficiently justified.

## Measures relating to the setting of spontaneous corrective statement procedure

### QUESTION:

- **What are the horse exercises that can be spontaneous corrective statement?**

### ANSWER :

The amended declaration may be subscribed under the financial years over the years 2016, 2017 and 2018.

So, are eligible for this corrective statement, the following horse exercises:

- 2015-2016;
- 2016-2017;
- and from 2017 to 2018.

### QUESTION:

- **Is spontaneous regularization is admissible for one year from the 3 years concerned in 2016, 2017 and 2018?**

### ANSWER :

Spontaneous regularization can be done by signing a supplementary declaration to the tax authorities in respect of financial years ending in 2016, 2017 and 2018.

Thus, this regulation is admissible when it concerns one year from the above three exercises.

### QUESTION:

- **Taxpayers belonging to a professional organization that signs an agreement with the DGI-they can choose between the Convention and individual adjustment based on the explanatory note?**

### ANSWER :

For spontaneous regularize their tax situation, taxpayers **can choose freely** one of the possibilities provided by Article 247 of the CGI-XVIII, namely:

- The subscription of a corrective statement in light of irregularities reported by the administration, to the benefit of the cancellation of office of penalties and the exemption of tax audits;
- The subscription of a corrective statement on the basis of an agreement with a professional organization for the benefit of the cancellation of office of penalties and the exemption of the tax audit.

### QUESTION:

- **What format will it take the explanatory note? The model of this note will be determined by the DGI?**

#### ANSWER :

Article 247- XXVIII of the CGI does not provide printed model that the administration must establish the explanatory note concerning the taxpayer is required to submit. However, this note must include, for all positions or transactions concerned:

- Corrections carried out by the taxpayer;
- The detailed reasons for the absence of total or partial adjustment of the irregularities by the administration;

It is accompanied by a document that reveals the identity of the accountant or chartered accountant who attended the taxpayer.

#### QUESTION:

- **How to justify the professional support of the taxpayer for the development of the explanatory note?**

#### ANSWER :

As mentioned above, the explanatory note under Article XXVIII 247-B, the taxpayer must submit must include all positions or transactions, the rectifications made, and the detailed reasons for the failure to complete or partial legalization irregularities to the taxpayer by the administration on its request within the framework of voluntary regularization procedure.

As such, the board is communicating with the taxpayer all data it considers relevant to the anomalies noted by the administration to bring the latter to establish the aforementioned explanatory note by ensuring that its position with regard rectification request follows the standards of transparency and rules of legal and regulatory compliance. To this effect, the board shall ensure as escrow on sufficient and relevant motivation comments relating to the irregularities found by the administration and not accepted or not accepted by the taxpayer

The Board provides the assisted taxpayer a document with his signature, attesting to the completion of the mission of assistance relating to the establishment of the explanatory note in accordance with Article 247 XXVIII.

Finally, boards may establish a model to standardize the content of the aforementioned document to be attached to the note. The taxpayer and his counsel are free to establish the documents defining their mutual commitments.

#### QUESTION

- **Who is responsible for adjustments contained in the explanatory note?**

#### ANSWER :

According to the provisions of Article XXVIII 247-B, it is the taxpayer who is responsible for the explanatory note and its contents. Therefore, the amended statement is his personal commitment to the tax authorities.

It is recalled that in a spirit of voluntary tax compliance, this statement may include spontaneous corrections made at the initiative of the taxpayer has the effect of redressing the reported results of shortcomings.

#### QUESTION

- **How can the corrective statement enhance the sense of trust?**

#### ANSWER :

Section 247 gives XXVIII transitional opportunity for taxpayers who wish voluntarily correct their tax returns with errors, deficiencies or omissions spontaneously to regularize their situation.

Confidence is the fact that the taxpayer is assigned by law, the possibility of " *catch his own mistakes* "Vitiating its accounts without the intervention of the administration through spot checks. The latter confines itself to provide it upon request, the state of irregularities it has found and it is to him that the duty to make the adjustments that are needed. This is another sign of confidence.

Finally, the liquidation of the additional tax payable, calculated on the basis of the corrections contained in the amended statement causes **the exemption of fiscal control** for each of the taxes and each of the years 2016 to 2018 having been said declaration.

#### QUESTION:

- **What about taxpayers having been the subject of filing of amendment declaration under Article 221 Bis-III of the CGI?**

#### ANSWER :

Are not excluded from the transitional arrangements, taxpayers have been the subject of the amended declaration procedure pursuant to Article 221 bis of the CGI-III.

To this end, the corrective statement originally filed as part of this procedure is obviously considered to perform any additional adjustments.

#### QUESTION:

- **In the case of taxpayers with a credit or VAT charged on deficits exercises 2016, 2017 and 2018, they must also regulate the four years prior to 2016?**

#### ANSWER :

It is recalled that taxpayers can make spontaneous regularize their tax situation, for their tax returns with errors, deficiencies or omissions in unrecorded transactions, resulting in a

**insufficient turnover or the tax base.**

This corrective statement can be subscribed under the financial years ending in the years 2016, 2017 and 2018, **subject to the provisions of Article III-232 of the CGI.**

So when deficits or tax credits related to prescribed exercises or tax periods were offset against the taxable or tax due for an exercise or a non-prescribed period, correction s extends to the last four years or periods

prescribed tax. However, correction can not exceed, in this case, the amount of losses or credits deducted from the tax base or tax payable in respect of the period or non-prescribed exercise.

**QUESTION:**

- **A taxable person who has failed to self-liquidate the VAT payable by a non-resident service provider who performed in his favor of taxable transactions in Morocco, can it drop on its own spontaneous corrective statement under the provisions of -XXVIII Article 247 of the CGI?**

**ANSWER :**

Taxpayers who have failed to mention that tax in their own VAT return, can spontaneously to regularize their situation under the provisions of Article 247-XXVIII of CGI, even if their own declaration is liable to ensure their tax compliance.

**QUESTION:**

- **The loss statements with a minimum contribution of complement-eligible?**

**ANSWER :**

Taxpayers who take corrective statements and spontaneously to pay an additional CM can benefit from the transitional regime spontaneously regularize their tax situation. They are required, however, to correct the reported results under the 2019 financial year and if appropriate under subsequent years.

**QUESTION:**

- **T Are there a communication delay information to taxpayers and communication fault of such information by the administration?**

**ANSWER :**

Tax Administration ensure that information is communicated to taxpayers within a reasonable period taking into account the statutory period of their subscription amending statements.

To this end, the tax administration is firmly committed to the requests of taxpayers wishing to apply a corrective statement.

**QUESTION:**

- **What model declaration for spontaneous regularization of the tax situation of the taxpayer?**

**ANSWER :**

To correct their tax affairs, the taxpayers may purchase a corrective statement to the tax administration by 1<sup>st</sup> October 2020 on or after a printed pattern established by the administration published on the IMB website.

**QUESTION:**

- **How to treat the withholding tax under the occult distribution?**

**ANSWER :**

It should be remembered, in this respect, that the corrective statement concerns the corporate tax as well as tax deducted at source under section 158 of the Tax Code, allowing taxpayers to regularize their situation in under the withholding tax on the profits distributed or deemed distributions occult related to corrections made at the corrective statement.

**QUESTION:**

- **What are the control procedures which have the effect of excluding taxpayers benefit from this tax device spontaneous regularization?**

**ANSWER :**

are excluded from the transitional arrangements spontaneously their tax affairs in order:

- Taxpayers who are out of business;
- and taxpayers in business for the fiscal period having been one of the control procedures provided by the CGI.

To recall, are not excluded from the transitional arrangements, taxpayers have been the subject of the amended declaration procedure pursuant to Article 221 bis of the CGI-III.

**QUESTION:**

- **Does excluding taxpayers of the amended voluntary disclosure procedure is for those having already been the subject of a tax inspection procedures, only in respect of the audited years and taxes?**

**ANSWER :**

Under the provisions of Article 247-XXVIII-D CGI, are excluded from this transitional regime spontaneously their tax position adjustment, taxpayers have been one of the control procedures provided by the CGI, under only exercises and taxes covered by this control.

**QUESTION:**

- **This exclusion does regard to control proceedings initiated in the year 2020?**

**ANSWER :**

First, it should be noted that the tax provisions of the LF in 2020 regarding the corrective statement provide no suspension of the normal procedure of tax audit under the general law. Therefore, audit operations for the year 2020 relating to different types of control are involved as usual. However, the taxpayers are eligible for the right to subscribe a corrective statement. The tax authorities address them in this case, the state of irregularities

corresponding to the audit results available to it on the date of submission of their application relating to corrective statement said.

### Measures on the deliberate regulation of liquid assets

#### QUESTION:

- **Does the regulation of liquid assets held in the form of bank notes is taken into consideration for determining the amounts of corrections to be made at the corrective statement**

#### ANSWER

It is worth noting first of all that the two above adjustments relate to plans of an advisory nature **Derogatory**. Similarly, they do not fall under the same sections of the budget law; The first is governed by Article 7 and the other is treated in Article 6 that deal with tax measures in the tax code.

Furthermore, the bases and the rights of winding up provisions to pay a totally different section of the budget law to another.

It follows that every regulation is governed independently and leads appropriate tax consequences. Therefore, no link is established between the two types of adjustments for the determination of the basis for calculating duties.

#### QUESTION:

- **What is the grandfathering rule for regularization on liquid assets that are already on deposit?**

As stated above, this regulation is governed by a particular text under a separate section of the Finance Act 2020.

As such, the recovery time required by the common law does not apply to the present case. The liquid assets amount already on deposit whatever nature, are eligible for voluntary regularization **without limit on their seniority in the past**.



measure relating to the adjustment of the minimum contribution rate

**QUESTION:**

- **For the purposes of the rate of 0.6% CM, is what the current result excluding depreciation is a tax accountant or current income?**

**ANSWER :**

The above result means the current accounting operating income before depreciation attributable to operating expenses.

**QUESTION:**

- **In the case of exporters who benefit from the five-year exemption under the minimum contribution, it is the date on which reference must be to establish the existence of recurring profit before amortization deficit for the application of the new rate 0.6%?**

**ANSWER :**

It should be noted that the increased rate of the minimum fee set at 0.60% applies, when, beyond the period of three-year exemption referred to in Article 144-IC (1 and 2) of CGI, adjusted earnings before amortization is declared negative by the company, under two consecutive years.