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Understanding the « Value Sharing Law »

(Loi de « Partage de la Valeur »)

The « Value Sharing Law » was enacted on November 30, 2023. It transposes the « National Interprofessional Agreement » of February 2023. The main objective of this law is to more closely associate employees with their company's performance. It expands value sharing mechanisms and increases their implementation in small and medium-sized enterprises (SMEs).

The main measures to remember are :

- The obligation of a value-sharing scheme from 11 employees (currently, only companies with more than 50 employees are required)
- And the incorporation of the « Value Sharing Bonus » into the long-term framework of « Employee Savings System ». Until now, this bonus (known as the "Macron bonus") was an exceptional measure and received directly.

The « Employee Savings System » before the « Value Sharing Law » :

So far, there have been three schemes:

1. « Profit-Sharing Scheme » (« Participation ») results from the company's profits. There is a legal formula and several derogatory formulas.
2. « Incentive Scheme » (« Intéressement ») (optional) is based on the company's results and performance. It has the advantage of offering very flexible award conditions.
3. « Employer Matching Contribution Scheme » (« Abondement » (optional) can be paid in addition to one of the previously mentioned schemes or during a voluntary contribution, when they are invested in a Savings Plan.

➩ *The « Plans »* :

A « Savings Plan » allows employees to invest funds from existing schemes such as Profit-sharing (« Participation ») or Incentive (« Intéressement »). Implementing a « Savings Plan » is mandatory once a Profit-sharing scheme has been established.

There are four types of Employee Savings Plans :

1. The Company Savings Plan (« Plan d'Epargne Entreprise » - PEE).
2. The Inter-Company Savings Plan (« Plan d'Epargne Inter-Entreprise » - PEI).
3. The Collective Company Retirement Savings Plan (« Plan d'Epargne Retraite d'Entreprise Collectif » - PERECO).
4. The Inter-company Collective Retirement Savings Plan (« Plan d'Epargne Retraite d'Entreprise Inter-Entreprise » - PERECOI).

The Essence of the Reform (Law 2023 - 1107 of November 30, 2023)

The law aims to support employees' purchasing power and encourage the direction of bonuses resulting from company value sharing towards employee savings or retirement products. Notably, two new value-sharing obligations are added for companies with 11 to 49 employees and for those with more than 50 employees. The law sets four main objectives :

1. Facilitate the generalization of value-sharing schemes
2. Simplify the implementation of value-sharing schemes
3. Develop employee shareholding
4. Strengthen social dialogue on job classifications.

Companies with 11 to 49 employees

The obligation for companies with 11 to 49 employees takes effect on January 1, 2025, while other measures come into force the day after promulgation, i.e., December 1, 2023.

It becomes mandatory for companies with 11 to 49 employees to implement a value-sharing scheme if they meet the following conditions :

- Be constituted as a company
- Have achieved a net fiscal profit of at least 1% of turnover over three consecutive financial years
- Not already have a « Value-Sharing Scheme » in place

The possible Value-Sharing Schemes are (at choice) :

- Profit-sharing (« Participation »)
- Incentive (Intéressement »)
- Value-sharing bonus (« Prime de Partage de la Valeur - PPV)
- Employer matching contribution in a Savings Plan (PEE, PEI, PERECO, or PERECOI – cf. supra)

Value-sharing bonus (PPV - « Prime Macron »)

The Added Value Sharing Bonus (« Prime de Partage de la Valeur » - PPV) sees several measures impacting its operation:

- Possibility of paying 2 bonuses per calendar year and per employee.
- The total tax exemption amount for these bonuses is 3,000 euros (see below) or 6,000 euros if the company has implemented a profit-sharing or incentive agreement for the same fiscal year.
- Allocation of one or both bonuses into an employee savings or retirement plan is possible, with a potential employer matching contribution.

Since July 1, 2024, the value sharing bonus can be paid into a Company Savings Plan or a Retirement Savings Plan and can be matched by the employer. This investment of the Value Sharing Bonus (Prime de Partage de la Valeur - PPV) into a plan must be requested by employees within 15 days of receiving the information. If no choice is made, the PPV will be paid directly to the employee.

The law already provides for two distinct exemption schemes depending on the salary and the time of payment (Law of August 16, 2022 on purchasing power).

These two schemes are impacted by the new law.

In the first scheme, currently in force, for companies with less than 50 employees : for employees receiving a salary lower than 3 times the minimum wage (SMIC), the PPV benefits from a total exemption from social security contributions, income tax, CSG/CRDS, and social security contributions.
In the second scheme, the PPV benefits from a total exemption from social security contributions :

- For employees receiving a salary higher than 3 times the minimum wage (SMIC), if the bonus was paid after July 1, 2022,

- For all employees, starting from January 1, 2024.

However, it remains subject to the CSG/CRDS, social security contributions, and income tax and is counted in the Reference Tax Income (« Revenu Fiscal de Référence »).

« Value Enhancement Sharing Bonus » (« Prime de Partage de la Valorisation de l'Entreprise » - PPVE) :

The law creates a new scheme called the « Value Enhancement Sharing Bonus » (« Prime de Partage de la Valorisation de l'Entreprise » - PPVE), which allows companies to distribute to employees a bonus indexed to the company's valuation at the end of a three-year period. This optional and collective scheme is open to all companies. If implemented, all employees of the company benefit from this bonus (beyond one year of service unless otherwise stipulated in the implementation agreement).

The PPVE can be allocated to an employee savings plan or a retirement savings plan and cannot exceed 75% of the Social Security Ceiling (PASS). The law distinguishes between :

- Listed companies, where the company's value corresponds to its average market capitalization
- Non-listed companies, where the company's valuation formula takes into account its net book value, profitability, and business prospects.

The Value Enhancement Sharing Bonus (PPVE) cannot be substituted for a component of remuneration considered in the calculation of social security contributions, nor can it replace another employee savings or value-sharing scheme. For this scheme to be implemented, an agreement must be established based on a report from the company's statutory auditor or an auditor designated for this purpose, according to one of the following methods :

- A collective labor agreement or convention
- An agreement between the employer and the representatives of trade unions
- An agreement concluded within the social and economic committee
- Ratification of a draft agreement by a two-thirds majority of the staff.

The agreement must then be submitted to the administrative authority (DREETS) to qualify for tax and social exemptions.

In the event of allocation of the PPVE to an employee savings or retirement plan, the law provides several advantages :

- ***Fiscally:*** These amounts are exempt from income tax up to a limit of 5% of the maximum amount that can be allocated (i.e., 75% of the Social Security Ceiling - PASS) per beneficiary and per year.

- ***Socially:*** These amounts are exempt from part of the legal and conventional social security contributions, as well as the apprenticeship tax, the construction participation contribution, and the social package. However, they are subject to a 20% employer social security contribution (for bonuses paid during the fiscal years 2026 to 2028).

Exceptional Profit

The law now requires companies with at least 50 employees to begin negotiations by June 30, 2024, on the consequences of an exceptional profit generated by the company. This obligation is subject to three conditions :

- The company must have at least one union representative
.
- The workforce must be at least 50 employees for five consecutive calendar years.

- Once the exceptional profit increase is achieved, the sharing methods must take one of the following forms :

    An additional profit-sharing or incentive
    The implementation of a value-sharing scheme (incentive, PPV, or matching contribution).

Companies with at least 50 employees still have the obligation to implement a profit-sharing agreement.

How to join Laure Voisin, our Savings Plan Manager ?

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