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The tax treatment of pharmaceutical companies continues to compromise the appeal of France for inward investment.

For the seventh time since 2012, PwC Société d'Avocats has conducted a survey on behalf of LEEM to assess the tax treatment of pharmaceutical companies in France, compared with those based elsewhere in Europe.

Now updated with figures for 2021, this survey once again shows France in last place behind all other European countries in terms of its tax policy. **France has the highest level of industry-specific taxation in Europe, and this tax burden on pharmaceutical companies makes the country less appealing for inward manufacturing investment than its European neighbours.**

The PwC survey compares the overall tax burden (general and industry-specific taxes) placed on pharmaceutical companies in France with those imposed by comparable European countries, on the basis of three main profiles of companies in this industry.

The results indisputably repeat and extend the findings reported in previous years. Of the seven countries included in the survey (France, Germany, Italy, UK, Ireland, Spain and Switzerland), **France still has the highest overall tax rate, regardless of circumstances or business profile**[1]

Although the general taxation situation is improving in France with reductions in corporation and manufacturing-related taxes, these changes still fall short of offsetting the heavy burden of industry-specific taxation imposed on the pharmaceutical industry, despite it having been identified as a strategically important crisis recovery sector.

Challenged and weakened incentive schemes

In terms of tax incentive schemes for research France is in a fairly good position, largely as a result of its Research Tax Credit (Crédit d'Impôt Recherche or CIR), and the reduced rate of tax applied to income from industrial property rights[2]. That said, the attractiveness of these schemes has also declined in recent years; the restrictions introduced by the international standard (the OECD Base Erosion and Profit Shifting or BEPS project) have led to the reduced rate being capped and its implementation methods becoming more complex.

[1] Survey conducted on the basis of three pharmaceutical company models: (i) Principal contractor (parent company): the company holding relevant intangible assets (patents and brands) and having a research and development (R&D) activity, a manufacturing activity and a distribution activity; (ii) Manufacturing Distributor: Subsidiary having a manufacturing activity, a distribution activity and an R&D activity undertaken on behalf of the principal contractor (no intangible assets held); (iii) Distributor: Subsidiary having a distribution activity and an R&D activity undertaken on behalf of the parent company (no intangible assets held)

[2] The new scheme introduced by Article 238 of the French General Tax Code.

Similarly, the Research Tax Credit base has been lowered by the Finance Acts for 2020 and 2021, and an increasingly restrictive approach has been adopted in terms of its control, the result of which has been to weaken the system to the point where it no longer provides the level of security expected by companies.

Moreover, these schemes are now competing with similar schemes recently introduced or upgraded in other European countries. For example, Germany introduced a 25% Research Tax Credit scheme in 2020, and Italy upgraded an equivalent scheme.

Industry-specific taxation: a disadvantageous factor that must remain limited and be justified

The industry-specific taxation gap between France and our European neighbours widened again this year, particularly for the 'Manufacturing Distributor' and 'Distributor' profiles. This deterioration relates directly to the tax burden imposed by industry-specific contributions, which is by far the highest in France, both in number and amount, and also to the very significant increase in regulation over recent years. Over the same period the tax burden imposed by our European neighbours has remained stable overall, and even improvements seen for 'Principal contractor' profile companies in Germany, Italy and Switzerland, where tax take has fallen by between 0.5 and 4 points since 2019.

This deterioration in industry-specific taxation in France raises serious questions about the acceptability of the level of these contributions and the justification for them.

In practical terms, although some specific contributions may be justified on the basis of generating funding for particular projects (e.g. the rise in the sales volume tax contribution introduced by the Finance Act for 2021 to fund the reform of the *Comités de Protection des Personnes* (ethics committees) or the regulation of industry-specific business activities (e.g.: the contribution intended to limit the promotion of reimbursable pharmaceutical products to healthcare professionals), ensuring acceptability of their burden compared to our European neighbours **requires a real effort on transparency by central government and better traceability of how the tax raised is allocated to justify such a large discrepancy**. Furthermore, the additional 'taxation' currently being imposed in France on part of the rebate mechanisms and on regulation via a safeguard clause that is now at unprecedentedly high levels, is raising fears of France's competitiveness declining even further relative to its European competitors.

All of these issues are further aggravated by the high level of instability around French general and industry-specific tax rules, which continues to send a very negative signal to foreign investors, and runs contrary to the government's stated aim of making France the leading European nation in terms of health innovation and sovereignty by 2030.

To strengthen its position in an increasingly competitive international environment and to meet the challenges it faces, France must implement an ambitious tax policy and reduce the current discrepancies to an absolute minimum. Leem calls for existing incentive schemes - and especially the research tax credit - to regain their former appeal, and for continued efforts to bring the levels of manufacturing-related and sector-specific taxation into line with its main European competitors.

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