



GÉRALD DARMANIN  
MINISTER FOR GOVERNMENT ACTION AND PUBLIC ACCOUNTS

*Introductory speech by* **Gérald DARMANIN,**  
**Minister for Government Action and Public Accouts**

**Overview of the new trust-based relationship**

*Bercy*

*Jeudi 14 March 2019*

*“For people to deserve our trust, you have to give it to them first”* wrote Marcel Pagnol, in book 4 of his *Memories of Childhood* called *The Time of Love*. After a long consultation period, this is the gamble we’re taking today. Trust is not a matter of decision, it is built over time, step by step. And someone needs to take the first step. This is the goal of the seven initiatives that we are presenting today.

These measures may seem merely technical in nature, but we’re actually committing to a real cultural shakeup. I don’t need to add that this was far from self-evident for either the tax authorities or businesses, although it was absolutely necessary:

- Taxation is becoming impossibly complicated. Obviously, ignorance of the law is no excuse, but this adage is now highly theoretical when set against the 2,000 pages of the French General Tax Code. The authorities have to ensure proper application of the rules and traditional audits are just one of the methods available to them. Support and advice are just as important.
- Also, legal certainty provides true economic value: certainly the levels of taxation are a factor for international competition, but so is the foreseeability of the tax environment and the authorities’ ability to answer tangible questions from businesses as and when they are asked.
- There’s no doubt that tax compliance is a financial issue for businesses but I firmly believe that it’s also increasingly a reputational issue. Committing to transparency with the tax authorities, ensuring that rules are fully complied with and the right amount of tax is paid, and being able to show this in public debate – these are all major economic advantages in an age when citizens are increasingly sensitive to these issues.

This is the thinking behind the right to make a mistake introduced by President Macron which I was responsible for writing into law with the Government Reform Act for a Trust-Based Society (ESSOC) and which we are now applying in practice in the actual daily relations between our government departments and their users.

The seven initiatives for the new trust-based relationship which we're presenting to you today take in organisation, practices, corporate cultures, resource allocation and management. They don't need new laws to be adopted and the majority of them can be applied immediately.

With the ESSOC, we initially provided for an authorisation to legislate by government decree. After a months-long consultation, the conclusion was clear: none of the measures for the requirements you flagged up need major legislative amendments but simply minor tweaking. Most of them relate to a legal concept which is as straightforward as it is clever, and is a long-standing cornerstone of our tax law: the tax ruling. This represents the notion that the tax authorities, with no particular formal requirements, express their position in writing in response to questions referred to them. This position is binding on them in the future provided the legal and factual circumstances remain the same.

\*

\* \*

The tax ruling mechanism is the foundation for the main innovation in this new trust-based relationship: the "tax partnership".

The concept is simple: major enterprises and mid-tier companies are frequently audited. Once a business reaches a certain size, the tax authorities rarely let a year go by without auditing it. For mid-tier companies, this may

mean an audit every three years whereas in major groups, there may be several, or even several dozen, audits every year.

As the authorities and businesses earmark resources to regularly examine tax compliance, why should this always be done after the fact, with a two- to three-year time lag, whilst returns have been filed, transactions carried out and companies have already made tax choices which might have been different if we had talked about them? Why not have these discussions as the issues arise, when things are still evolving or before all the decisions have been taken?

This is the rationale behind the tax partnership which constitutes, first and foremost, a revolution of the “here and now”. On one hand, the authorities collect the right amount of tax straight away, spontaneously and without litigation. On the other, the risk is dispelled for businesses to face ex-post adjustments, sometimes three years or more after the fact, with interest on arrears and potentially penalties. In this way, tax risks in France are eliminated and there is no need for provisions to be set aside in the financial statements.

You could remind me that there was already an experiment in this respect in 2013. How is the tax partnership different? I’d reply that it was a pertinent and even ground-breaking experiment in certain ways but that we have learned lessons regarding its shortcomings and have adjusted the arrangements accordingly:

→ Firstly, the tax partnership will not aim to validate all elements of a financial year exhaustively but will focus on major tax issues. Points not addressed as part of the partnership will still be open to audits at a later date. This means that businesses will have to decide, in conjunction with the

authorities, the extent of the tax questions for which they require certainty, bearing in mind that the outstanding points may still be audited.

→ Next, the business's contact will no longer be the audit department but a special department which is part of the Large Business Directorate (DGE) for mid-tier companies and major groups, and the legal teams of the Regional Public Finances Directorates (DRFiP) for SMEs.

→ Lastly, the partnership will be arranged at group level and not subsidiary by subsidiary. Obviously, there will be no need to address all the issues facing all the subsidiaries at the same time but all the issues confronting the group, irrespective of which part of the group they affect, could be discussed and the authorities' position concerning a question put by a subsidiary of the group could apply to all the others.

We will be signing off on the first partnerships a little later. I'd like to thank the businesses which have opted to come on board from the outset. I hope that the twelve companies that will put pen to paper today, and the others that are set to follow suit in the coming days, will be the trailblazers for a relationship which is set to prosper.

These companies will have the services of a special team of high-level experts overseen by a true professional who is well known to many of you. The members of this team are tasked with showing that, with country-specific adjustments, France is able to roll out the sort of relationship that has long been commonplace in the United Kingdom or in the Netherlands. There are those that you will see signing later on and there are all the SMEs to which we are currently offering customised tax support. Throughout the Public Finances Directorate General's (DGFIP) network, dedicated experts, who are the local equivalents of the partner department for businesses, will help

review, advise and issue binding positions on growth- and innovation-related tax issues that affect our SMEs.

By the end of the President's five-year term of office, I'd like to see several dozen major groups and mid-tier companies join the tax partnership and several hundred SMEs take advantage of the customised tax support. For our part, we undertake to marshal the resources required to keep pace with demand.

I can already anticipate criticism from some quarters that we are cutting back on tax audits and giving up on the fight against tax evasion. But nothing could be further from the truth!

As we have said, most of the groups that join the partnership are audited on a very frequent basis. In a major enterprise, an audit is not carried out by just one auditor. Instead, an entire team of auditors with several different specialisations are generally involved.

If the companies that join the partnership fulfil the tax compliance criteria that we have established, it means that the tax authorities have not discovered any misconduct. There may have been errors to correct, but no fraudulent financial arrangements were detected. In such cases, why should we continue to devote such substantial resources to auditing these companies with chronometric regularity? Instead, the partnership will be a much more economical way to ensure their tax compliance through the regular and transparent discussions that will be established.

Nationwide, I would remind you that 25% of tax audits do not result in any tax adjustments or adjustments for small amounts. This is an immense waste of resources. The fact is that we have the means to offer this partnership to companies that value their tax compliance and legal certainty, while fighting more and more effectively against tax evasion.

In auditing departments, the teams previously working on audits of the companies that join the partnership can be reassigned to handle other matters and can be sent to audit other taxpayers who have been less frequently in contact with the tax authorities. To accomplish this, auditing departments need more effective targeting tools. We are investing significantly in human and technological resources to provide them with such tools.

Of course, many companies will prefer not to experiment with this kind of cooperation with the tax authorities. In addition, many companies do not face taxation issues that would really warrant it. Nevertheless, these companies are not being ignored in the new trust-based relationship.

As we have stated, business taxation is complex and evolving due to changes in national and EU legislation, case law and tax guidelines. It can give rise to diverging or even contradictory interpretations. Incidentally, over their long existence, legal entities may undergo major changes to their internal tax policies, for example, when they change shareholders, executive management or board directors.

Therefore, we wish to make it easier for companies to bring their tax situation into compliance on a voluntary basis. While this procedure is obviously already possible, some companies may be reluctant to use it for fear of facing penalties.

With the circular that I published at the beginning of the week, the department for processing voluntary compliance requests that we are setting up will now give a clear framework and be a one-stop-shop for handling such requests. In addition, when the Parliament repealed the tax authorities' prerogative for deciding on criminal prosecution of tax evasion cases – the famous “Bercy lock” – it wisely decided that voluntary compliance

requests would not automatically be transmitted to prosecutors even if they lead to penalties.

To provide tax certainty for basic, routine matters for which tax law and accounting practices generally converge, we are creating a tax compliance assessment. These assessments may cover questions related to depreciation, deductible expenses, compliance with VAT and withholding tax payment rules, or provisions.

A qualified third party auditor may conduct an audit on these matters and issue a certificate of conformity to the companies involved. This will dispel the tax risk for companies on commonplace matters. In the event of an error by the auditor, a company that has complied with the auditor's recommendations will not have to pay penalties or interest on arrears. It can request a refund for the assessment service and can file a civil suit against the auditor under the ordinary rules governing their commercial relationship. All companies will be eligible to use this tax compliance assessment scheme.

For more complex matters, companies can continue to rely on the standard tax ruling system. Each year, the DGFIP issues around 18,000 tax rulings. The bulk of these rulings are handled by regional departments and are issued rapidly. However, the DGFIP's central units are responsible for the most complex matters and those that involve the largest amounts of money.

And this is where the problem lies. Whereas the law calls for a response within three months maximum, the process can take eight months to two years in the most extreme cases. This situation is unsatisfactory for everyone, and many of you emphasised this issue during the consultation. The organisational changes that we are implementing should enable us to comply with the three-month legal time limit. We will publish metrics on how well



we comply with these deadlines, and a year from now, it will be time to draw some initial conclusions.

In the same vein, we will devote resources to supporting French companies facing difficulties abroad. During the consultation, many of you alerted us to cases of double taxation you have sometimes faced, or to difficulties you have encountered in applying the terms of our tax treaties in certain countries. In such situations, you should be able to count on our support, including France's diplomatic network or political leaders during their trips abroad.

Lastly, it is our role to ensure that tax audits go more smoothly. The Government Reform Act for a Trust-Based Society took an important step by introducing a tax guarantee. The principle is straightforward: when an audit begins, the auditor will list the points that he or she is going to verify. If the auditor does not uncover any problems, then everything that the tax authorities have verified during the audit is guaranteed for the future – provided, of course, that the information available is reliable and comprehensive. Thus, the tax audit will also create legal certainty.

For matters that are relevant not only for the company being audited but also for all companies in a similar situation, public-interest tax adjustments will be published (similar to the publication of tax rulings), and a venue for dialogue with business representatives will be set up to define the tax authorities' official stance and ensure that it is enforced in the same way everywhere in France. Finally, the appeals process will be improved and made more fluid.

\* \*  
\*

As you can see, the new trust-based relationship that we wish to establish via these seven initiatives covers a very broad scope and targets all taxpayers. This approach is the result of our consultative work over several months. I would like to thank everyone who took part in this consultation: the public finance officers, of course, who have worked hard to prepare the announcements that are the reason we are meeting here today, as well as employers' federations, trade associations and companies. I would especially like to thank the experts present today who have helped us design these new systems by sharing their views as future users of all aspects of this new approach.

I do not know whether the first steps will give way to the “time of love”, as in Marcel Pagnol’s memoirs, but I do believe that we are creating something here that will last and will transform companies’ actual daily interactions with the tax authorities. For the DGFIP, the internal transformation is obviously a challenge, but this great directorate, which I am honoured to serve as Minister, has shown its ability to meet another major transformative challenge, in an entirely different field: income tax withholding at source. You know, and I know, that we can count on the professionalism and loyalty of its teams to make this new trust-based relationship just as successful.

As Minister of Public Accounts, also responsible for URSSAF and Customs, my challenge is to monitor the launch of this new “rocket” as it takes off, while also duplicating this approach for the social security and customs spheres. Each field has its own specific features, but the philosophy of a trust-based relationship should be applied in the same way, and we will certainly have an opportunity to talk about this again in the months ahead, notably so that URSSAF will finally become your friend.

Thank you.