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Weekly highlights by

L'ECONOMISTE

VAT reform

Minimal impact?

- A 0.22% fall in the general level of prices, according to the Finance Ministry
- For 59% of water bills, the increase will be 0.16 MAD
- Billions in compensation benefit just 14% of the target group

Finance Bill 2024: Tax solidarity for all!

Beware! Unpaid invoices must be declared until they are settled

Competition Council vs chartered accountants "We're not afraid to go to court"

Carbon neutrality: Morocco prepares a major announcement at COP28

Editorial

Painful

Meriem OUDGHIRI

PAYMENT deadlines, public procurement, special provisions in the Finance Bill, standardization... information sessions are multiplying to raise awareness and understanding.

Going back in time, this is reminiscent of 1995-1996, when the business world was in turmoil. At that time, Morocco was caught up in a legal bulimia, producing a myriad of texts (Commercial Code, Company Code, Customs Code, Freedom of Pricing and Competition Code....) with an intense dusting off of all the old codes.

The aim was to fill a real legal-economic vacuum and provide the country with reliable legal instruments, as well as encouraging investment and business transparency. The country had realized that it could no longer remain on the sidelines of globalization and continue to operate with archaic legislation and behaviors. This revitalization has become a matter of urgency in order to keep pace with these transformations. Today, this revitalization is also vital in the face of a crisis that compels us to work differently, to shake things up, create growth, and (re)restore confidence. This is why information is vital to debunk concepts, in other words, to make this sophisticated and conceptual construct, namely the law, more accessible in general, especially as each new piece of legislation generates its own uses, constraints, and sanctions.

A law is a societal issue, and each era and each piece of legislation reflects the evolution of practice and mentalities. But as the old adage goes: no one is supposed to ignore the law, because no one can escape his or her duties or the deadlines to be met. Transitions and changes are always painful, but necessary.❑

Weekly highlights

Finance Bill 2024: Tax solidarity for all!

WHILE the withholding tax brought many people out into the streets last year, this time it is VAT tax solidarity that is likely to have many shaking their heads. Article 183-A-VI-2e of the 2024 Finance Bill institutes the principle of fiscal solidarity with regard to the obligation to declare and pay VAT to the Treasury for any person directly or indirectly exercising a function of administration or management of the company. This strong tax provision therefore applies to CEOs, managing directors, deputy managing directors, CFOs, chief accountants, and others.

The introduction of the principle of tax solidarity between a company and its managers or beneficial owners is intended to combat tax evasion and avoidance. This goal is clearly stated in the presentation note of the Finance Bill, but the wording of the provision is cause for concern. "Before the notion of tax solidarity between managers can

be activated, it must first be proven that VAT revenues have indeed been misappropriated. Only legal action will be able to determine whether the tax has been collected and used for an expense, such as the purchase of land, for example", explains a tax expert, who added: "We also need to investigate whether the company is not merely dead, or whether it has cash-flow problems because a large client owes it money. Does this mean the authorities should sanction such a company?"

On another point, this tax expert points out that "a manager can only be held liable for private funds if the courts prove that he or she is actually responsible for a tax offence. Why doesn't the Administration go after the company that employs this manager, especially if it has assets?". The Public Debt Collection Code also provides for other means of getting taxpayers to pay their taxes. These include the formidable weapon of the notifications to third party holders, which has already proved its worth and can even be extended to customers of companies with tax debts. Indeed, the tax authorities can summon a customer to pay funds owed to the supplier to cover tax claims. Clearly, however, lawmakers are adding a new tool to the means of collection. ❏

Hassan EL ARIF

Beware!

Unpaid invoices must be declared until they are settled

INVOICES not paid on time or paid late will have to be declared online every quarter until they are cleared, warns Mohamed Lahyani, President of the Tax Commission of Chartered Accountants for the North of Morocco. The first deadline was set for Tuesday October 31, that was the last deadline for filings for Q3 2023. It is worth remembering that, as is the case with the car tax sticker and other electricity or telephone bills, many taxpayers will have to file their returns at the last minute. This declaration obviously concerns invoices of 10,000 Dirhams incl. tax (USD 1,000 incl. tax), issued between July 1, the date of entry into force of Law no. 69-19, and Sept. 30, 2023. One of the points that continues to be the focus of debate concerns proof of payment. Clearly, the presentation of a cheque does not constitute proof of payment for everyone. For the tax authorities, it is the actual collection date shown on the bank statement that confirms actual payment of an invoice.

"I advise customers to give their suppliers a cheque and have them sign a dated copy, which serves as an acknowledgement of receipt and therefore proof of payment to the tax authorities", explained Brahim Bahmad, a chartered accountant and partner in the firm of the same name. In practice, however, a supplier may not pay the cheque immediately, and may keep it for several days before cashing it.

The tax authorities' apprehension of the question of actual payment is not unlike the treatment of VAT, where the operating event remains the collection. As a result, tax authorities need to be able to cross-reference VAT files. But among professionals, discussions are lively.

Some are not hesitating to invoke the provisions of article 7 of decree no. 617-04 on default interest on public contracts. This stipulates that "for the purpose of calculating the amount of interest on arrears, the date of actual payment is understood to be the date on which the assigned accountant executes the transfer to the beneficiary, remits the cheque to the beneficiary or his bank, presents any other means of payment to the clearing house, or executes a stop payment or any other duly notified impediment". This implies recognition of the delivery of the cheque as proof of payment. Other practitioners rely on the provisions of the French Commercial Code relating to cheques, which are a means of sight payment.

It is also likely that, once the law has been implemented for the first time, certain imperfections will become apparent, as well as mistakes made by some taxpayers... There is therefore room for improvement in a law that is still in its infancy. ❏

Hassan EL ARIF

Weekly highlights

VAT hike: Lekjaâ downplays impact

THE Minister for the Budget addressed again an issue that dominated discussions in the Finance Committee of the House of Representatives. The issue was the impact of VAT reform on families' purchasing power and monthly bills. From the outset, Fouzi Lekjaâ made it clear that he didn't want anything to do with citizens' pur chasing power. But in saying that, he dealt with content in detail. Such is the case of the VAT hike on electricity and rental of meter, of 2% and 4% per annum over the next three years. This measure will only increase the weighted average monthly bill by 2 Dirhams in 2024, 4 Dirhams in 2025; and 6 Dirhams in 2026 compared to 2023. But all this needs to be nuanced. The first social bracket, which represents 66% of total consumer bills, will see only small increases, varying between 1 Dirham and 3 Dirhams (USD 0.1 to USD 0.3) between 2024 and 2026.

The second social bracket accounts for 17% of bills. Families in this category will pay 2.3 Dirhams more on their bill over the year. Thus, the 83% increase in bills due to the VAT rate will not exceed 3 Dirhams per month over the 2024-2026 period.

As for the selective billing category, it concerns those who consume more than 500 kw/h per month, which exceeds the electrical energy consumption of 5 families in the first social bracket. Families in this category will see their monthly bill increase by 20 Dirhams per year; that is to say 20 Dirhams in 2024, 40 Dirhams in 2025; and 60 Dirhams in 2026.

Questioned by the MPs, Fouzi Lekjaâ explained that, for example, in the case of the increase in VAT on electricity and meter rental of 2% and 4% per year over the next three years, this measure will only increase the weighted average monthly bill by 2 MAD in 2024, 4 MAD in 2025 and 6 MAD in 2026 compared with 2023 (Ph. L'Economiste).

As far as VAT on water via the public distribution grid is concerned, the minister spoke of the gradual increase in average VAT of 1% per year over the next three years. The impact on the bill and on Moroccan families will be very slight. It will increase by 50 centimes in 2024, 1.1 Dirhams in 2025; and 1.6 Dirhams in 2026 compared to 2023. For the first social bracket, which represents 59% of bills, the increase will be 16 cents. For the second social bracket, which represents 28%, the increase will be 60 cents. As a result, the social brackets will be largely unaffected by the VAT revision, since the increase will vary between 16 and 60 cents in the monthly bill. For the last two brackets, which consume between 20 and 35 cubic meters and more of water, the monthly bills will see annual increases of 4 and 10 Dirhams per annum. ❑

M.C.

Limited impact of the increase

GENERALLY speaking, the impact of the increase in VAT on electricity, water, transport and sugar will be limited on the various social strata, since it will not exceed, on average, 13 MAD in 2024, 26 MAD in 2025 and 39 MAD in 2026. If we take into account the effect of the reduction in this tax on medicines, school supplies and butter derived from milk, which amounts to an average of 11 MAD per month, the impact on all families will not exceed an average of 2 MAD per month in 2024, 15 MAD in 2025 and 28 MAD in 2026. Taking into account the reduction in subsidies on basic products, the overall monthly impact will not exceed 44 MAD in 2024, 100 MAD in 2025 and 160 MAD in 2026. This is less than what employees have gained from the income tax reform, which varies between 50 and 180 MAD per month for more than 80% of employees, with a financial cost of around 2.4 billion MAD. ❑

Weekly highlights

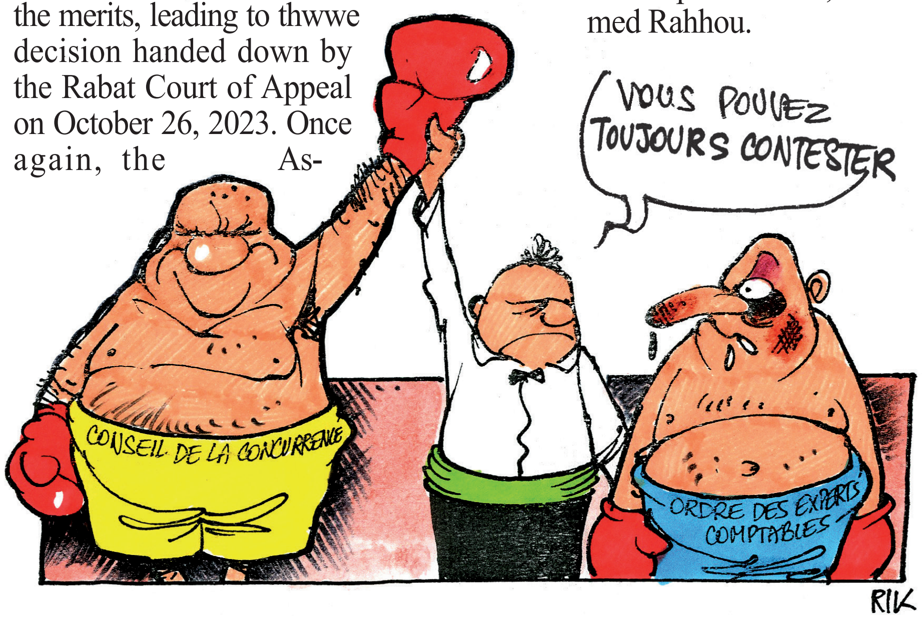
Competition Council vs chartered accountants

"We're not afraid to go to court"

INITIALLY, the dispute between the Competition Council and the Association of Chartered Accountants was the subject of a summary procedure as part of an emergency procedure initiated by the Association to challenge its monetary sentence of 3 million dirhams (USD 300,000). At the end of October 2022, the Association of Chartered Accountants' summary proceedings proved unsuccessful.

Subsequently, the professional association relaunched the battle on the merits, leading to thwwe decision handed down by the Rabat Court of Appeal on October 26, 2023. Once again, the Association's request was rejected.

What does the Chairman of the Competition Council think of the situation? "This will certainly enrich the jurisprudence. In one case, the Association of Chartered Accountants' opted for a settlement. In another, the Association of Chartered Accountants chose the legal route. Good for them. The regulator has never been afraid to go to court, even though we always encourage the use of settlement procedures", said Ahmed Rahhou.



Ahmed Rahhou, Chairman of the Competition Council *(Ph. F. Alnasser)*

The Chair of the Council thus refers to "judicious legal analyses" to defend his positions, while drawing attention to an often-overlooked risk: "If a regulator's decision is upheld in court, it opens the way for third parties to claim damages". The dispute between phone carriers Maroc Telecom and Inwi before the Rabat courts is a reminder of this.

"We always give priority to amicable settlement. Our aim is not to punish for the sake of punishing. Our aim is to put a stop to anti-competitive practices that harm the market and consumers. It is the future of the Moroccan economy that counts. A future that must be based on respect for the rules of competition law", insists the president of the Competition Council.

The fate of the Association of Chartered Accountants is not completely settled. It can still refer the matter to the Court of Cassation, having argued, among other things, that it was acting in "good faith" in a case also involving the Prime Minister's Office, the Ministry of Finance, and the General Secretariat of the Government, hence the intervention of the Kingdom's Judicial Agency in the case as defendant for the Government and the Kingdom's General Treasury, which demanded express payment of a public debt, in this case the three million dirham fine. ❑

F.F.

Carbon neutrality

Morocco prepares a major announcement at COP28

THE 28th Conference of Parties to the United Nations Framework Convention on Climate Change (COP28), to be held in Dubai from November 30 to December 12, promises to be a remarkable event for Morocco. Indeed, the Kingdom has decided to unveil its new Low Carbon Strategy 2050, a Long-Term low greenhouse gas Emissions Development Strategy (LT-LEDS) recommended by the Special Commission on the Development Model and drawn up under Article 4.19 of the Paris Agreement.

The announcement was made by Leïla Benali, Minister for Energy Transition and Sustainable Development, at a conference organized last week in Casablanca by the Swiss Chamber of Commerce around the theme of "Industrial decarbonization: what impact on business competitiveness".

On this occasion, the Minister emphasized that through this longterm low-carbon roadmap, Morocco's ambition is to develop new green value chains, improve the competitiveness of its economy, while ensuring its decarbonization and proactive export positioning. All of this will be done, of course, taking into account developments in this direction by its trading partners, and in particular the European Union's "Green Deal" and the African Union's new Continental Free Trade Area (AfCFTA).

Morocco's ambition, through this longterm low-carbon roadmap, is to develop new green value chains, and improve the competitiveness of its economy, while ensuring its decarbonization and proactive export positioning *(Photo by Bziouat)*

To successfully implement the LT-LEDS, seven lines of business will be put to work. These include renewable energies, energy efficiency, industry, transport, agriculture and forest ecosystems, the circular economy and waste, as well as promoting a new generation of low-energy and "smart" cities.

To begin with, Leïla Benali is announcing a surge in investment in renewable energy production, starting this year. "We'll be going from 4 billion dirhams (US 400 million)/year between 2009 and 2022 to 14 billion Dirhams (US 1,4 billion / year between 2023 and 2027, i.e. a 3.5-fold increase between these two periods", revealed the Minister. In terms of volume, the Equipment Plan of the National Drinking Water and Electricity Board (ONEE) will increase the production of electricity from renewable sources to 1.3 Gigawatts per year between 2023 and 2027, compared with 0.16 Gigawatts per year between 2009 and 2022. This means a fourfold increase between the two periods.

In addition to major solar power plant projects, such as Noor Ouarzazate, there will be selfgeneration initiatives alongside the rollout of ONEE's Equipment Plan projects. "This requires two things. We need to strengthen the grid and improve battery storage to minimize the cost of energy", said the Minister, who points out that "investments in the grid have been multiplied by three". ❑

Aziz DIOUF