



# Sharing Value Law

Updated: 02/01/2025

# Preamble

The law of 29 November 2023 transposing the ANI (national interprofessional agreement) relating to value sharing in companies came into force on 1<sup>st</sup> December 2023.

This law makes several changes to existing employee savings schemes and introduces new value-sharing schemes.

We take stock of the different contributions of the law of value sharing in this note.

## 1. The main adjustments in terms of participation and profit-sharing

### 1.1. Optional and derogatory participation in companies with less than 50 employees

Companies with fewer than 50 employees that are not required to set up a profit-sharing scheme will be able to adopt a **profit-sharing scheme that is less favourable than the legal scheme: the formula will therefore be less advantageous than the legal one**. The scheme is a 5-year experiment.

This system can be set up in 2 ways:

- **By company agreement**: It should be noted that it is not possible to provide for this mechanism by unilateral decision in the event of failure of negotiations.
- **By application of a branch agreement (not applicable)**: To do this, each branch had to open negotiations by 30 June 2024 at the latest in order to make available a standard agreement containing this derogatory formula.

**NB:** *companies that already apply a voluntary participation regime on 1 December 2023 can only opt for this derogatory regime by agreement concluded in accordance with the terms of ordinary law for the implementation of participation. The way to joining an approved branch agreement is therefore closed to them.*

## **1.2. Participation in companies already in place of a profit-sharing agreement for more than 50 employees**

In principle, each company reaching the threshold of 50 employees for 5 consecutive years must have a participation agreement. However, companies with a profit-sharing agreement had an additional period of 3 years.

The law abolishes the additional period, from now on, the period is 5 years for all companies crossing the threshold of 50 employees.

*NB: companies already benefiting from the additional 3-year deferral when the law comes into force (1 December 2023) benefit from the deferral until its end.*

## **1.3. The distribution of profit-sharing**

As a reminder, profit-sharing can be distributed evenly, and/or in proportion to salaries, and/or in proportion to the length of time they have been present.

From now on, for **the distribution proportional to salaries**, it is possible to set **a minimum salary and/or a ceiling salary** to the salary used for the distribution, in order to reduce the hierarchy of remuneration.

# **2. The main new value-sharing mechanisms**

## **2.1. Value sharing in the event of an exceptional increase in net profit for companies with more than 50 employees**

Companies with at least **50 employees** subject to **mandatory profit-sharing** and with at least **one union delegate** will have to start discussions on the definition and sharing of an exceptional increase in net profit when opening negotiations to implement a profit-sharing or profit-sharing scheme. The law only provides for an obligation to negotiate, not to conclude.

*In this case, as long as no union delegate is present in the company, no negotiation is mandatory.*

The negotiation must focus on two points:

- **The definition of an exceptional increase in profit**

This definition must include several criteria such as the size of the company, the sector of activity, the occurrence of one or more buyback operations of the company's shares followed by their cancellation if the operations were not preceded by allocations to employees, the profits made in previous years, exceptional events external to the company that occurred before the profit was made.

- **Determining the consequences of such an increase**

It is necessary to agree on the terms of value sharing, which can take two forms:

- Plan in advance how the value will be shared in the event of an exceptional increase in profit.
- Provide for the opening of a new negotiation after the observation of an exceptional increase in profit.

This may be a profit-sharing scheme (where none exists), or an additional profit-sharing or profit-sharing scheme, or a contribution to an employee savings plan, or the payment of a PPV.

On the other hand, companies that have already set up a profit-sharing or profit-sharing agreement that includes a specific clause taking into account windfall profits or those that have set up a profit-sharing scheme on the basis of a more favourable calculation formula than the legal formula will not have to launch this discussion.

Companies that already have a profit-sharing or profit-sharing agreement will have to enter into negotiations on this value-sharing theme in the event of an exceptional profit before 30 June 2024.

## **2.2. Experimental scheme for companies with 11 to 50 employees**

**On an experimental basis**, for a **period of 5 years**, companies **with at least 11 employees and less than 50 employees** will have to set up a value-sharing scheme during the following financial year.

This new obligation concerns companies with a **net tax profit of at least 1% of turnover for 3 consecutive financial years** and which **are not required to set up the profit-sharing scheme**.

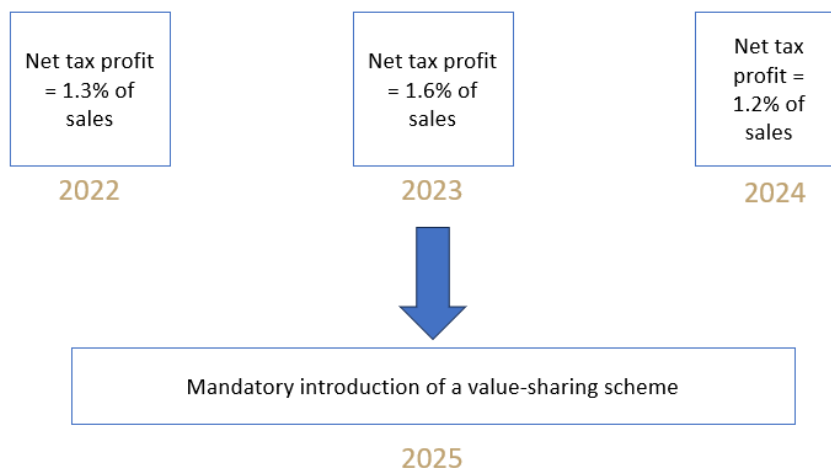
In practice, the obligation to set up a value-sharing mechanism will apply to financial years beginning after 31 December 2024, i.e. **from 1 January 2025**. Thus, the financial years 2022, 2023 and 2024 are taken into account for the assessment of compliance with the condition relating to the achievement of the net tax profit.

To set up a value-sharing scheme, companies will have the choice between:

- The legal profit-sharing or profit-sharing scheme;
- The experimental derogatory participation scheme planned for companies with less than 50 employees;
- Contribution to an employee savings plan (PEE, PERCO or PERE-CO);
- The value-sharing bonus.

Companies already applying one of the four value-sharing schemes for the financial year in question are not affected by this new scheme.

Example:



### 2.3. Creation of the company's valuation sharing plan

This new optional scheme will make it possible to interest employees in the valuation of the company, while retaining them given the duration of the sharing plan (3 years).

Employees will benefit from a **bonus for sharing the company's valuation (PPVE)** when the value of the company increases over 3 years, compared to the date set by the agreement setting up the scheme.

All companies, regardless of their size, falling within the scope of the profit-sharing legislation will be able to decide to set up, by agreement, a PPVE for a period of 3 years.

The scheme will concern all employees of the company with at least 1 year of seniority, but the agreement setting up the PPVE may set a lower seniority condition.

# **3. What's new in the value-sharing bonus**

*For more details, note that an explanatory note on the PPV bonus is available on our Aplitec website.*

## **3.1. The possibility of two value sharing bonuses per calendar year**

The law now allows **for two bonuses (PPV) to be paid** per calendar year within the limit of the exemption ceiling of €3,000 or €6,000. The bonuses may be paid up to a maximum of once per quarter during the calendar year.

## **3.2. The social and tax regime**

The social and tax regime of the PPV differs according to the size of the company:

- **For companies with fewer than 50 employees:** the previously applicable exemption regime is extended until 31 December 2026.
- **For companies with at least 50 employees:** regardless of the remuneration received by the employees, the PPVs paid will be fully subject to income tax, CSG/CRDS, payroll tax and social package (except for companies with less than 250 employees where the social package is not due).

## **3.3. Tax exemption in the event of allocation to a savings plan**

The law allows employees who have joined one of the following savings plans to allocate all or part of their PPV bonus to a PEE, PEI, PERCO scheme.

Allocation to a savings plan allows exemption from income tax, up to the ceilings of €3,000 or €6,000 per year and per beneficiary. A decree must be published in order to make this method effective.

\*\*\*\*

*This fact sheet contains summary information that does not cover all possible situations, nor the legal texts applicable in France.*

*Please contact us for advice tailored to your situation. We cannot be held responsible for any misinterpretation of this sheet.*

## **Contact**

**Claire APPELGHEM**

*HR Director/Head of Employment Law*

Claire.appelghem@groupe-aplitec.com

01 40 40 38 38



4-14, rue Ferrus 75014 Paris  
contact@groupe-aplitec.com | 01 40 40 38 38  
www.groupe-aplitec.com