



EUROPEAN COMMISSION  
EUROSTAT

Directorate D: Government Finance Statistics (GFS)

Luxembourg, 19 August 2013  
ESTAT/D-2/FL/LFO/LPU/mhd D(2013) 3053127

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**Subject: Treatment of CICE (Crédit d'impôt pour la compétitivité et l'emploi) in National Accounts**

Ref.: Your letter N° 14/DG75-G401 dated 31 May 2013

Dear Mr Mahieu,

Thank you for your letter dated 31 May 2013 sent to Eurostat on 11 June 2013. After having closely examined the arguments presented in your request, Eurostat is in a position to express its view on this matter.

#### **1. THE ACCOUNTING ISSUE FOR WHICH A CLARIFICATION IS REQUESTED**

A new payable tax credit, the *Crédit d'impôt pour la compétitivité et l'emploi (CICE)*, has been introduced in France from the year 2013 onwards. The main issue under discussion is the time of recording of the CICE in the framework of ESA10, which introduces a change in the treatment of payable trade credits.

##### *Description of the case*

- Features of the CICE

The CICE is a new payable tax credit granted to enterprises and applicable to the corporate income tax<sup>1</sup> on a yearly basis from the year 2013.

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<sup>1</sup> The CICE is also applicable to the personal income tax of individual enterprises, but the analysis provided by INSEE focuses mainly on the corporate income tax.

It concerns all enterprises with employees and is established for each company on the basis of the compensation of employees paid throughout the year in the limit of 2.5 times the minimum salary.

For the year 2013, the tax credit will be based on a rate of 4% to be applied to the compensation of employees paid during that year. For the following years, it will be based on a rate of 6% to be applied to the compensation of employees paid each year. This would lead to amounts of around 13 bn € (0.6% of GDP) for the first year and of around 20 bn € (around 1% of GDP) for the following years.

The following remarks on the use of the tax credit should be underlined:

- In principle, the tax credit for year N can only be used from the year N+1 onwards, once the final tax declaration for year N is presented by the company. The deadline for the presentation of the tax declaration for year N is the 15 April of year N+1 for enterprises setting their accounts on a calendar year.
- If the tax credit for a given year exceeds the tax liability for the same year, the remaining part can be used during the following three years.
- In case some amount of the tax credit has not been used after the following three years, it will be directly reimbursed by government to the company.
- For certain enterprises<sup>2</sup>, the part of the tax credit exceeding the tax liability can be reimbursed immediately after the tax declaration of the same year is presented, with no obligation to wait to use it over the following three years.

In addition, enterprises can benefit from a pre-financing of this tax credit by banks. The tax credit related to year N can be transferred to a third party (a credit institution) before the tax is settled in year N+1. The credit institution would provide cash to the company and would become the owner of a claim on government.

- Treatment of taxes and payable tax credits in ESA95 and ESA10

### ESA95

Although ESA95 follows the accrual principle<sup>3</sup> for the recording of most transactions, some flexibility is allowed for the time of recording of income taxes when the liability to pay the tax can only be determined in a later accounting period than the one in which the income accrues (ESA95 4.82). ESA95 allows, under these circumstances, the recording of the prepayments of income taxes in the period in which they are paid (on a cash basis), while any final tax liability on income can be recorded in the period in which the liability is assessed.

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<sup>2</sup> SME, new enterprises, young innovative enterprises and enterprises in difficulty.

<sup>3</sup> For taxes, this would mean to record the tax at the time when the activity generating the tax liability takes place, in this case at the same time the salaries are paid.

This is the case for the corporate income tax in France, where the exact amount of tax to be settled corresponding to year N is not determined until the first quarter of year N+1. Thus, the recording of the tax revenue for such tax is done on a cash basis (the tax revenue for year N is recorded according to the amount of taxes effectively collected in year N through four quarterly instalments), while the settlement of the tax (which could also be negative, as tax credits are deducted as negative revenue) is recorded in year N+1 at the time when the tax declaration is assessed by government.

Under ESA95, all tax credits<sup>4</sup> are recorded as negative revenue (negative tax) in French National Accounts. In this sense and following the above, tax credits in France are taken into account when the final tax liability is determined (when the final tax declaration is presented), meaning that a tax credit related to the corporate income tax of year N is recorded in the accounts of year N+1. This current treatment would entail a recording of the CICE granted for the year 2013 in the accounts of the year 2014.

### ESA10

ESA10 foresees no change for the recording of income taxes. However, it introduces a distinction for the recording of payable trade credits, which should now be treated as expenditure instead of negative revenue. This concerns the CICE and raises the issue of its appropriate recording in National Accounts.

The flexibility mentioned above for the time of recording of income taxes when the liability to pay the tax can only be determined in a later accounting period than the one in which the income accrues, is an exception for certain taxes (revenue items) in ESA<sup>5</sup>. However, such treatment is not mentioned for expenditure items, which are therefore to be recorded normally following the rules on time of recording of category of expenditure.

As under the new ESA10, payable tax credits should be recorded as expenditure and INSEE has proposed the recording of the CICE as other subsidies on production (D.39), a literal interpretation of ESA10 would lead to a recording of the CICE at the time where the activity generating the tax liability takes place (at the time the compensation of employees is paid). This would mean that the CICE for 2013 would be recorded in the accounts of government for the year 2013.

The issue to be discussed is the time of recording of the tax credit granted for the year N, i.e., whether to record it at the time the tax liability is established (presentation of the tax declaration, thus impacting the account of year N+1) or whether to record it at the time the activity giving rise to the tax liability takes place (when the compensation of employees is paid, thus impacting the accounts of year N).

### *Documentation provided*

Following the letter dated 31 May 2013 sent by INSEE on 11 June 2013, Eurostat requested further details on the pre-financing of the CICE. This information was provided by INSEE in a note dated 23rd July 2013.

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<sup>4</sup> Payable and non-payable.

<sup>5</sup> It is the same in ESA95 and ESA10.



## 2. METHODOLOGICAL ANALYSIS AND CLARIFICATION BY EUROSTAT

### *Applicable accounting rules*

The treatment of tax credits is specified in ESA10 in chapter 20 (20.168). The time of recording of the different expenditure categories is determined in chapter 4 (ESA10 4.39 for subsidies, 4.106 for social benefits, etc.). However, the time of recording of tax credits has not been fully specified in ESA10. In the Financial Accounts Working Group (FAWG) meeting of June 2013, Eurostat presented a document proposing some options for the recording of tax credits under ESA10. The MGDD version in line with ESA10, currently being finalised, will include some guidance in this respect in its chapter II. Notably, it establishes the principle that the recording of the payable tax credit should be independent of the time of the use of the tax credit.

### *Availability of national accounting analysis*

According to the letter sent by INSEE on 11 June 2013, the reporting of CICE in the April 2014 EDP notification will be done following ESA95 rules. Therefore, the CICE granted for 2013 will still be recorded as a negative tax, when the tax declaration is presented (in 2014), having no impact on government B.9 for the year 2013.

The first EDP notification following ESA10 will take place in October 2014. In its letter, INSEE has confirmed the treatment of the CICE as an expenditure item (other subsidies on production, D.39) from October 2014 onwards, therefore complying with the new recording of payable tax credits specified in ESA10. However, this recording as expenditure raises the need for further guidance on the time of recording of tax credits, not fully specified in ESA10.

In this regard, INSEE proposed two options and provided an analysis of the pros and cons of each. Estimates for the April notification would be needed in both cases.

One option would be to record the tax liability in the period when the activity generating the tax liability takes place, which means, in the year 2013, when the compensation of employees generating the CICE was recorded in National Accounts. According to INSEE, this treatment would follow the time of recording specified in ESA10 for other subsidies on production, but would raise some constraints, such as the need to make estimates on the amounts. This treatment would lead to implement a change in the recording of taxes on income compared to the present method used, by bringing it closer to the accrual principle. The last constraint is the likely considerable revision in government B.9 in October 2014 as compared with the data reported in April 2014 following ESA95 for the year 2013<sup>6</sup>.

A second option would be to record the tax liability at the time it is assessed by the tax authorities. According to INSEE, this option is simpler and it would provide a consistent treatment for year 2013 in the April and the October 2014 EDP notifications. However, there may be an inconsistency with the time of recording foreseen in ESA10 for subsidies, which should follow the accrual principle.

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<sup>6</sup> If this option is followed, the CICE granted for year 2013 will impact government B.9 in year 2014 at the time of the April EDP notification and it will impact government B.9 in year 2013 at the time of the October 2014 EDP notification, thus creating an inconsistency.

### *Analysis by Eurostat*

As ESA10 does not introduce any change concerning the recording of taxes, Eurostat sees no need to discuss the overall recording of income taxes in this document. In addition, the recording of the CICE as other subsidies on production proposed by INSEE meets fully the new ESA10 requirements. Therefore, the analysis provided would focus just on the time of recording of the new payable tax credit.

The new recording of payable tax credits as expenditure, will give rise at some stage to the recognition of a government liability<sup>7</sup> for each tax credit granted. The key point is to determine when is this liability established or, more precisely, when would government recognize the liability in its books.

It should be taken into account that, for payable tax credits, it does not matter to consider the time when the credit is used as a reduction of the tax liability or the time when the tax credit is paid in totality or for the excess of the tax liability. This is only a payment modality and any time lag between the time of recording of the expenditure and the time of the imputation/payment, would give rise to an entry in other accounts F8. Therefore, the tax credit is to be recorded as an expenditure for its full amount regardless of the possible use of the tax credit for paying the tax liability over one or more years and the payments received in excess of the tax liability.

To this respect, Eurostat has considered the pre-financing mechanism available for the claim on government related to the CICE and owned by the enterprises. Such claim (*créance "en germe"*), calculated on the basis of the compensation of employees paid in year N and estimated before the tax liquidation in N+1, can be transferred to a credit institution under a public guarantee system. Eurostat submitted some questions to INSEE in order to understand whether the certificates issued for such pre-financing engaged the State and if this was the case, to determine when.

The note prepared by INSEE clarified the following:

- Once a claim is transferred to a credit institution under certain conditions, the latter notifies this to a public accountant. At this stage, the public accountant sends a form to the credit institution indicating whether the claim (*créance "en germe"*) has already been transferred. However, government does not recognise a liability at this stage.
- At the time of the tax declaration (year N+1), enterprises have to declare the claim on government arising from the CICE and for this purpose they fill in a special form (n°2079-CICE-SD) in which they provide the amount of the claim and specify whether the claim has been transferred to a credit institution. Upon reception of a special form declaring the transfer of the claim, the public accountant issues a certificate (n°2574-SD) which is sent to the credit institution and which acknowledges the claim that the credit institution has on government. Our understanding is that the government liability is established only at this stage. The tax administration then redeems the financial institution.

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<sup>7</sup> This was not the case with the recording followed in ESA95, where payable tax credits could be recorded as negative revenue without a government liability arising.



Following the paper on this issue presented in the FAWG of June 2013 as well as the chapter on the time of recording in the new version of the MGDD which would be in line with ESA10, in the case of payable tax credits, recorded as expenditure, the time of recording should be the time of recording of the category of expenditure as stated in ESA10.

As the CICE is to be recorded as other subsidies on production, it would seem natural to follow the time of recording specified in ESA10 for such item:

ESA10 4.39 specifies as a general rule that “Subsidies are recorded when the transaction or the event (production, sale, import, etc.) which gives rise to the subsidy occurs.”

The above would entail to record the tax credit at the time the compensation of employees was paid, thus in 2013. However, as mentioned in the version of the MGDD in line with ESA10 (II.2.2), in practice there may be some deviation from this principle when the right to the subsidy must be assessed, controlled, certified, etc., i.e. at the time a claim of a certain amount is recognised by government.

It is the opinion of Eurostat that this deviation from the accrual principle could indeed be applicable to the time of recording of the CICE. In this case, we would consider that the time of recording of the CICE will be the time when the tax credit is assessed (when the liability for government is established).

### **3. CONCLUSION**

Eurostat understands that no claim is recognized by government until the tax declaration is assessed and this occurs only in year N+1, after the accounts of year N are closed.

The CICE would be recorded as other subsidies on production and, based on all the above mentioned arguments, the deviation from the accrual principle seems applicable and would not represent a contradiction of ESA10.

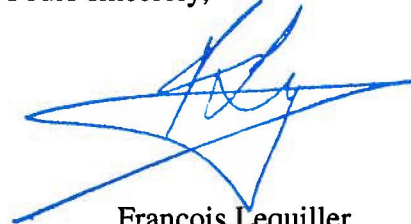
Therefore, Eurostat would recommend the time of recording of the CICE when the tax liability is assessed by the tax authorities, leading to a recording of the tax credit granted for the year N in the accounts of year N+1. In practice, the CICE granted in 2013 will only be recorded in the accounts of year 2014 and no amounts concerning this tax credit for 2013 should appear in EDP tables before the April 2015 EDP Notification.

### **4. PROCEDURE**

This view of Eurostat is based on the information provided by the country authorities. If this information turns out to be incomplete, or the implementation of the operation differs in some way from the information presented, Eurostat reserves the right to reconsider its view.

In this context, we would like to remind you that Eurostat is committed to adopt a fully transparent framework for its decisions on debt and deficit matters in line with Council Regulation 479/2009, as amended, and the note on ex-ante advice, which has been presented to the CMFB and cleared by the Commission and the EFC. Eurostat therefore publishes all official methodological advice (ex-ante and ex-post) given to Member States on the Eurostat website. In case you have objections concerning the publication of this specific case, we would appreciate if you would let us know before 10 September 2013.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'F. Lequiller', is written over a large, stylized blue star or asterisk shape.

François Lequiller  
Director