

---

## FRANCE

---

### Flood of Notre Dame Donations Raises Issue of Charity Deductions

by William Hoke

The fire that ravaged the Notre Dame cathedral in Paris was quickly followed by multimillion-euro pledges to help rebuild the cathedral. It could also lead to demands that France improve its tax incentives for charitable giving.

Some of France's richest people and biggest companies offered to pony up eight- and nine-digit amounts to help rebuild the iconic church. Within two days of the April 15 fire, published promises of aid for the reconstruction effort neared the €1 billion mark.

François-Henri Pinault, chair of the group that controls Kering S.A. — a major luxury goods company — and the husband of actress Salma Hayek, said his family will donate €100 million toward rebuilding the cathedral. Pinault's pledge was soon followed by a promise of €200 million from LVMH Moët Hennessy Louis Vuitton SE, a luxury goods conglomerate, and the family of its CEO and chair, Bernard Arnault. Total S.A., a French energy company, said it will donate €100 million, and L'Oréal S.A. and the Bettencourt Schueller Foundation joined forces to pledge another €200 million.

Even Apple Inc., which French tax authorities started investigating in 2015, has offered to help with the rebuilding. On April 16 Apple CEO Tim Cook tweeted that the company will contribute an unspecified amount to the cause. In February Apple reportedly agreed to pay \$571 million to settle the tax dispute.

Marc Bornhauser, a tax lawyer with the Cabinet Bornhauser law firm in Paris, said French law allows individuals to take deductions equal to 66 percent of charitable donations to offset up to 20 percent of taxable income, with a five-year carryforward. Companies can deduct 60 percent of donations, up to a maximum of 0.5 percent of annual sales.

Whether those limits are sufficient to bring in the billions of euros that the rebuilding effort is expected to cost is uncertain. Bornhauser said there will likely be calls for the French Parliament

to improve the tax incentives for charitable deductions. “However, our tight budget situation may not allow it,” he said. “The answer will be delivered shortly, I guess.”

Former Culture Minister Jean-Jacques Aillagon said April 15 that the government should designate Notre Dame a national treasure so corporate contributions to rebuild the cathedral would qualify for a special 90 percent tax deduction.

“Currently, the definition includes paintings that can be exported — and never buildings like cathedrals — so the definition of national treasure must be modified,” said Éric Pichet, director of the postgraduate program in real estate and wealth management at Kedge Business School. Pichet said Parliament will likely move quickly to improve the tax breaks for donations made to rebuild Notre Dame.

But concern about revenue drains caused by tax subsidies for the reconstruction effort appears to have had an effect. On April 17 Aillagon reportedly withdrew his appeal to designate Notre Dame a national treasure and the Pinault family said it would not take a tax deduction for its promised donation.

Laurence Clot, a tax lawyer with Bird & Bird in Paris, said her firm has received many questions about the tax incentives and related limitations. “We have many tax deductions in France, so depending on the [situation], some are more used than others,” she said. “It is sure that in 2019, [the] French will use [the charitable deduction], considering the urgent need to rebuild Notre Dame.”

Pichet said the individual tax deduction for charitable donations is available only to those who pay tax — approximately 43 percent of the population. “It would be better and not very expensive to transform this tax deduction into a tax credit because, currently, a donor of €100 who pays income tax gives, in reality, only €33, and a poor donor, who isn’t eligible for income tax, pays €100,” he said.

Pichet said there is also a deduction of 75 percent against the real estate wealth tax (IFI) for donations of up to €50,000 made to qualifying entities, including charities, and contributions that are in the national interest. He said a donation for the rebuilding of Notre Dame made

to the Fondation du patrimoine (French Heritage Foundation) would qualify for the tax break. The IFI is assessed on real estate holdings that, in the aggregate, exceed €1.3 million, and is imposed at progressive rates ranging from 0.5 percent to 1.5 percent.

The question of whether the government will move to increase the tax incentives for rebuilding Notre Dame will likely be answered when President Emmanuel Macron delivers a national address that was originally planned for the evening on which the fire started. Macron had been expected to announce measures to be adopted after “yellow vest” protesters forced the government to review its proposed 2019 budget and tax measures.

### Foreign Contributions

The pledges of contributions are not coming only from French residents. CNET, a U.S. media website, said at least three charities organized under IRC section 501(c)(3) have been collecting donations to help rebuild the cathedral.

Gordon Fischer, a lawyer in Iowa City, Iowa, specializing in philanthropy planning, said a U.S. donor who makes a charitable contribution to a foreign organization is generally not allowed to deduct the amount for federal income tax purposes. “Exceptions may apply in very limited situations — specifically, the U.S. has tax treaties with Canada, Israel, and Mexico” that allow for the deductions, Fischer said.

Ryan Oberly, a lawyer with Wagenmaker & Oberly LLC in Chicago representing tax-exempt organizations, said a U.S. resident who wants to contribute to the rebuilding of Notre Dame could still get a tax deduction if the donation is made to a qualifying section 501(c)(3) organization that then routes the funds overseas. “There is plenty of money that flows out of the country if it’s donated to a U.S. entity,” he said. “However, the U.S. charity must maintain some sort of oversight that the funds are being properly spent. It can’t be a mere conduit.”

U.S. residents whose total allowable deductions exceed the standard deduction for their filing status can use cash donations to qualifying charities to reduce their taxable income by 60 percent of adjusted gross income for the 2019 tax year. Schedule C corporations can deduct

charitable contributions up to 10 percent of taxable income, subject to limitation.

Alain Pilet, chief administrative officer of the French Heritage Society, a 501(c)(3) organization in New York City dedicated to preserving French architectural and cultural heritage, said his not-for-profit has collected over \$20 million during its 35 years of existence for projects in both France and the United States. "We created a special fund for the restoration [of Notre Dame] and received almost \$80,000 within the first 24 hours," he said. "That's unbelievable."

Not everyone is as enthusiastic about using the tax system to subsidize the reconstruction of a foreign monument. Fiona Heather Patten, a member of Australia's Victorian Legislative Council, issued a statement April 16 titled, "Don't Give the Catholics Another Handout."

"The Catholic Church is one of the wealthiest organizations in the world [and] they do not need government handouts," Patten said. "What happened in Paris overnight was an absolute tragedy, but the taxpayer shouldn't fund religious renovations. Do we want to check the Taj Mahal for termites? Does the Church of Scientology need another lick of paint?" ■

*Teri Sprackland contributed to this article.*