Give open source a (tax) break — FOSDEM 2021

Sven Franck · FOSDEM 2021, Legal and Policy Issues

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Give open source a (tax) break

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D.legal

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FOSDEM 2021



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GIVE OPEN SOURCE A (TAX) BREAK

Sven FRANCK
Fonds de Dotation du Libre (FDL)



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- Case 4: Open Data - afs.one
- Case 5: Open Policy - Health Data Hub
- Takeaways



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FDL 101

- Endowment fund created in 2018
- Serving general public interest
- Mimics the procedures of government sponsored RTD projects
- Expert committee to evaluate proposals
- Tax exemption between 60% and 66% of donations



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▼ Détails

- Service Public - Donation Policy for Enterprises (fr)
- Service Public - Donation Policy for Individuals (fr)

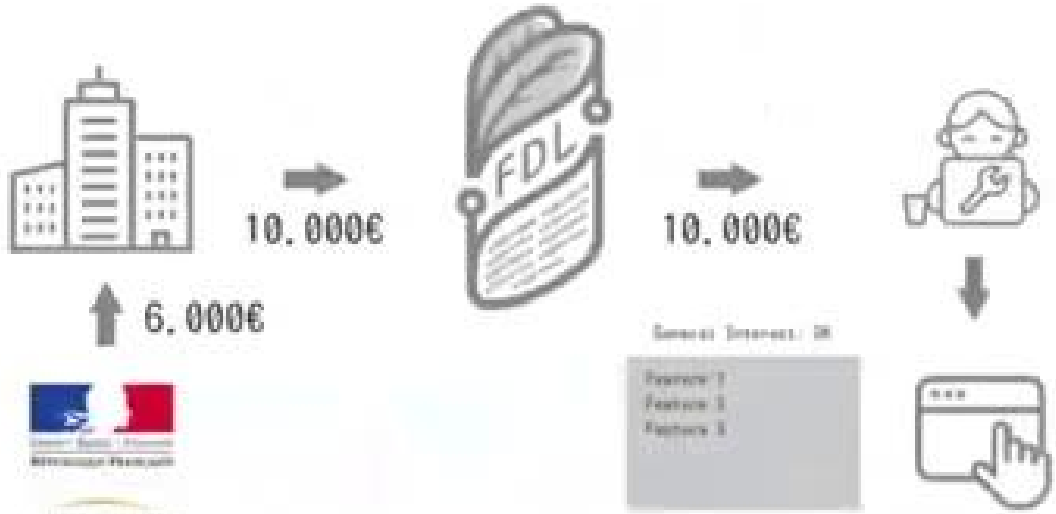
TAX DISCOUNTS

In France, donations can be partially reclaimed from taxes. Companies can reclaim up to 60% of donations of up to 2 million euros capped at .005% of annual turnover. Example: A company with turnover of 1 million has a cap of 5.000€. On a donation of 10.000€ it can recover 60% of 5.000€ from earnings = 3.000€. For individuals, 66% percent of donations can be recovered from taxes up to maximum amount of 20% of taxable income. Example: An individual with 40.000€ taxable income can donate 8.000€ per year and recover 66% of it. A donation of 2.000€ would therefore mean a tax exemption of 1.320€.



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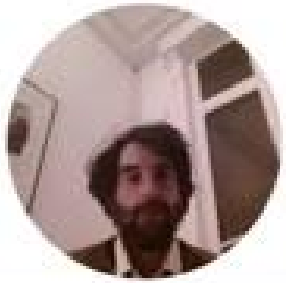
OPEN SOURCE TAX BREAKS #1





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SAMPLE PROJECTS



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#1 OPEN SOURCE - JEXCEL



- Open source spreadsheet editor developed by Bossanova
- FDL financed development of a new release



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▼ Détails

- Bossanova's Jexcel v4

IDEA

The Jexcel project was the first open source software development project undertaken. FDL received a request to finance adding several featutures to the Jexcel library. After approaching the developer Bossanova, it was decided to finance the development of a new release through FDL. The proposal and request for financing was approved by the FDL committee and FDL formalized a contract with Bossanova based on a defined feature set.

SUCCESS

The new release was published in April of 2020.

STATUS

Project completed.



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#1 OPEN SOURCE - JEXCEL



- Open source spreadsheet editor developed by Bossanova
- FDL financed development of a new release



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#2 OPEN HARDWARE - OPEN RADIO SYSTEM





- FDL is acquring the technology of an RRH
- PCB design and BOM will be published under open source licence

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▼ Détails

IDEA

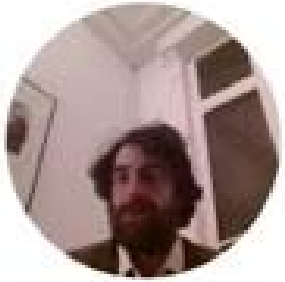
In 2020, FDL was approached by a small Telco provider closing down concerning the possibility of purchasing its technological assets including a remote radio head (RHH) used to extend 4G/5G networks at the edge. FDL decided it would try to acquire the assets and publish the underlying PCB design and BOM under an open source licence. FDL started to secure the financing for a potential acquistion looking for donors.

SUCCESS

An acquistion contract has been signed and the transfer of the technological assets has begun with FDL currently evaluating assets based on contractual criteria.

STATUS

Ongoing project



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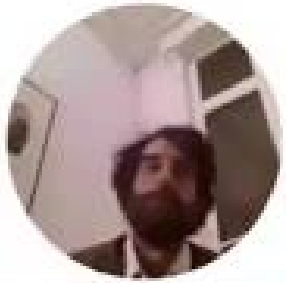
#3 OPEN SERVICE - HYPEROPEN INITIATIVE

Open Source everything incl. NOS & OSS/BSS

Open Hardware

Open Service new

- FDL created the HyperOpen initiative
- First two cloud providers implementing the idea



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▼ Details

- HyperOpen Initiative introduction

IDEA

HyperOpen introduces the concept of Open Service on a level with Open Source and Open Hardware. Open Service applies the four freedoms of Free Software to the service industry. With Open Service, everyone can use a service, study how a service is made, modify the service and become provider of that service. Open Service means one must be transparent about what suppliers, components and procedures are used to provide a cloud (or any other) service. Used components should be open-source on the other hand. FDL has launched the HyperOpen Initiative in order to provide a framework for cloud providers interested working towards interoperability and transparency.

SUCCESS

Rapid.Space and BSO are the first two cloud providers trying to implement the concept. FDL is currently working on creating the underlying association and structure.



STATUS

Ongoing project

#4 OPEN DATA - AFS.ONE



- Directory of European Open Source software publishers
- Focus on success cases
- Shared and contributed as open data (JSON)



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▼ Détails

- Afs.one Website / Data repository

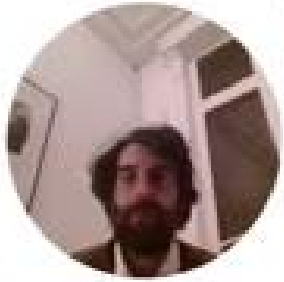
IDEA

The project aims to show the ecosystem of European software publishers creating free software solutions for industry and public administration, creating jobs and technological innovations. The directory is shared and contributed as open data (JSON) on a git repository. The focus is on success cases rather than community criteria, because in order to increase adoption and acceptance for Free Software, a successfull implementation for us is more important than "community criteria" such as repository forks and stars.

SUCCESS

Using a donation we added 150 publishers, their solutions and success cases. Afs.one was mentioned during the EU Commission's Workshop on the Future of Open Source Software and Hardware and we were involved in a follow-up pitch for a bigger initiative on EU level.

STATUS



We have a backlog of 150 publishers to add and an update of financial indicators to make. We'd also like to improve filter/export to allow for more integration in 3rd party applications. If you would like to contribute, we're happy to accept donations.

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#5 OPEN POLICY - HEALTH DATA HUB



- French platform to gather hospital patient data
- Contract awared to Microsoft in questionable process
- FDL financed two lawsuits based on tender and Schrems II



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▼ Détails

- Santenathon - IT companies and non-profit organisations protecting patient data (fr)
- CNIL ruling on Health Data Hub / Website Health Data Hub (fr)
- Wikipedia entry on Health Data Hub and status (fr)

IDEA

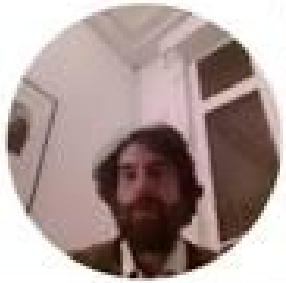
In 2019, the French government awarded a contract to Microsoft to develop the Health-Data-Hub - a platform for collecting French patient data. Santenathon filed two lawsuits questioning the tendering process and the applicability of Schrems II due to the data potentially being exposed to foreign governments (Cloud Act).

SUCCESS

FDL financed the legal fees for both lawsuits filed by Santenathon. The CNIL required the government and Health Data Hub to provide short-term guarantees to assure patient data is safe while migrating the platform to a French or European provider.

STATUS

The topic seems far from over, with one of the last decrets of the outgoing president requiring US cloud companies to verfiy the identity of foreign individuals using their services.



1. Software is eating the world, but nobody pays for open source soft
2. Provided the legal conditions, endowment funds can be used to lov
   the cost of open source development
3. French FLOSS is a vibrant ecosystem, likely also due to these favo
   conditions
4. As the EU discusses ways to support open source software, replica
   the French model may also warrant attention



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▼ Détails

- Linux Foundation: FOSS Contributor Report 2020
- Heise.de/Julia Reda - Where is Europe's open technology fund? (de)

INFORMATION

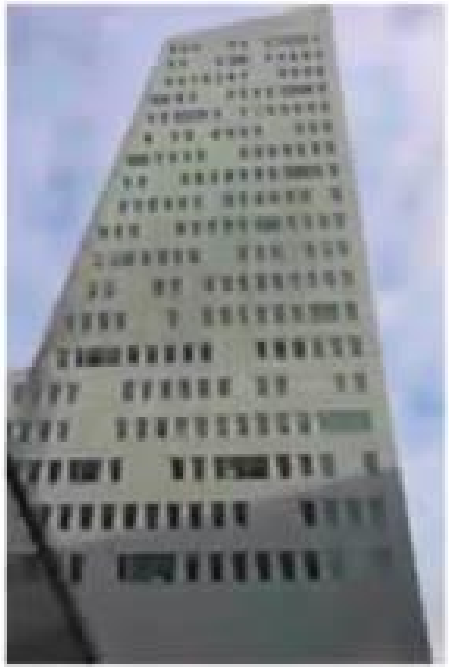
The recently published FOSS contributor report showed that 48.7% of contributors were paid for their contributions by their employer with only 2.95% being paid by a third party. So even today as (open source) software continues to eat the world, almost half of all projects lack the financial base for ensuring their respective software's long-term existence.

To alleviate this, financing open source using tax breaks on donations made to endowment funds or general interest associations is a construct available in France and a viable alternative to sponsor open source projects. French endowment funds have to comply with strict auditing procedures but if compliant, French law permits corporations and individuals to donate and claim back part of their donations from future income taxes.

The examples should highlight that provided the legal conditions in a respective country exist, funding of FLOSS solutions and related general interest projects can be partially subsidized by tax exemptions.



THANK YOU



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