

DOING BUSINESS IN FRANCE 2017  
BOOKLET 1

# ESTABLISHING A BUSINESS

# AIRFRANCE



## FRANCE IS IN THE AIR



# PUTTING YOU AT THE CENTER OF OUR WORLD

Welcome to our Business class, where your comfort is our priority.

There are more than 25,000 foreign companies operating in France, where they employ nearly two million people: what better advert could there be than this for the business environment in our country? Its steadfast attractiveness as a business location can be seen in that France was ranked third in Europe in 2015 for the number of job-creating foreign investment projects received, and was also the leading destination for foreign investment in industry.

With its global outlook and warm welcome for talent in all its forms, France is committed to doing all it can to attract and help investors expand their businesses on French soil. This “Doing Business” guide is designed in the same spirit of hospitality, as it seeks to provide key information to investors on a full range of regulatory, tax and employment law matters that may arise when setting up and running a foreign subsidiary in France.

Written by Business France experts in association with specialists from leading law firms, auditors, accountants and human resources consultants, it provides clear, authoritative and detailed advice in line with the needs of entrepreneurs.

Updated every year, it takes into account all recent reforms to the business environment in France, most of which are designed to improve the attractiveness of the French economy. This 2017 edition consequently examines two major reforms, the first affecting the labor market – the Labor, Social Dialogue Modernization and Career Security Act of August 8, 2016 – and the second to attract key talent – the Right of Foreign Nationals Act of March 7, 2016. It also includes details on changes made in the end-of-year French Government Budget Acts, such as the scheduled reduction in the corporate tax rate from 33.33% to 28% by 2020.

Everyone at Business France is ready to respond to any queries you may have about how the regulations overviewed in this publication may apply specifically to your business.

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CHAPTER



# SETTING UP BUSINESS IN FRANCE SUCCESSFULLY

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# SETTING UP BUSINESS IN FRANCE SUCCESSFULLY

In principle, there are no administrative restrictions on foreign investment in France. Whatever your business development strategy, in France you will find an appropriate legal structure for the kind of business you wish to set up. Investors can set up a permanent or temporary structure and enjoy full legal peace of mind; they are then free to drive their project forward in an uncomplicated and inexpensive environment.

## I. SIMPLE STEPS FOR FOREIGN INVESTORS TO FOLLOW

### I.1 SIMPLE STATISTICAL RETURN TO THE BANQUE DE FRANCE

Formality	Cases
Return for statistical reasons filed with the Banque de France	Acquisition of 10% or more of the equity or voting rights in a resident company – or when equity or voting rights in the company rise above the 10% threshold, if the amount of these transactions exceeds €15 million.

### I.2 PRIOR AUTHORIZATION IN CERTAIN BUSINESS SECTORS

Certain acquisitions in sectors considered to be “sensitive” require prior authorization. This is provided within two months from when the application is received by the minister responsible for the economy (tacit agreement to be assumed if no reply is received). The only foreign investment transactions in France that are subject to prior authorization are those that fall under the following conditions:

### TRANSACTIONS SUBJECT TO PRIOR AUTHORIZATION:

- Acquisition of a controlling interest in a French company (majority of voting rights; power to appoint or remove members of management bodies; majority interest exceeding 40% of equity).
- Acquisition of all or part of a business line by a company headquartered in France.
- Acquisition of interests exceeding 33.33% of equity or voting rights in a French company by investors from countries outside the European Union (EU) and the European Economic Area (EEA).

## SECTORS SUBJECT TO PRIOR AUTHORIZATION

Investments affected	Sectors requiring prior authorization
Investments from non-EU/EEA countries	<p><b>1</b>• Gambling (excluding casinos) <b>2</b>• Regulated private security services <b>3</b>• Research, development or manufacture of means to prevent the illicit use by terrorist networks of biological or toxic agents, and associated health-related risks.</p> <p><b>4</b>• Communications interception equipment. <b>5</b>• and <b>6</b>• Security audit and certification for IT systems and contracted provision of security services in IT sectors for specified public- and private-sector entities. <b>7</b>• Dual-use items. <b>8</b>• Encryption and decryption systems for digital applications. <b>9</b>• Businesses privy to classified defense information. <b>10</b>• Weapons, munitions and explosives for military applications or equipment used in warfare. <b>11</b>• Businesses contracted to design or supply specified equipment or services to the French Ministry of Defense or its subcontractors. <b>12</b>• All business activities deemed crucial to France’s national interests relating to public order, public security and national defense, namely: integrity, security and continuity of energy and water supplies, transport services and networks, electronic communication services and networks, and vitally important establishments; protection of public health.</p>
Investments from EU or EEA Member States	<p><b>1</b>• For transactions involving the acquisition of a controlling interest: points 8 to 12 above.</p> <p><b>2</b>• For transactions involving all or part of a business line of a company with interests in the following sectors: Specified private security services relating to biological or toxic agents and chemical weapons; communications interception equipment; security audit and certification for IT systems and contracted provision of security services in IT sectors for specified public- and private-sector entities; dual-use items and technologies.</p>

Contact: Ministry for the Economy and Finance (Treasury Directorate).



## II. SOLUTIONS FOR SETTING UP BUSINESSES

The formalities for setting up businesses have been greatly simplified and the whole procedure can be carried out over the internet.

Choosing a business structure in France depends on the investor's strategy and the degree of independence that the French operations are to have from the parent company.

### QUICK COMPARISON OF WAYS TO SET UP BUSINESSES IN FRANCE

	Type of business structure	Definition	Features
No commercial activity	Liaison office	One representative office in France, no commercial activities	<b>Simple structure</b> (extension of a foreign company in France) <ul style="list-style-type: none"> <li>• No commercial activities</li> <li>• No autonomy</li> </ul>
Long-term solutions	Branch	Through its representative, an entity of the foreign company that can legally bind the company (i.e. sign sales contracts)	<b>Uncomplicated structure that can conduct commercial activities</b> <ul style="list-style-type: none"> <li>• Can make decisions independently as the branch's representative in France</li> <li>• Transactions legally binding for the foreign company</li> </ul>
	Subsidiary	Company subject to French law that can conduct all types of business	<b>Autonomous legal entity</b> <ul style="list-style-type: none"> <li>• Transactions only legally binding for the subsidiary itself</li> </ul>

### II.1 SIMPLE SOLUTIONS FOR PROSPECTING FOR BUSINESS

A foreign company wishing to prospect for business in France can start by hiring a single employee or by opening a liaison office.

### LIAISON OFFICES: NOMINAL REPRESENTATION WITHOUT COMMERCIAL ACTIVITY

A foreign company may recruit or send an employee to France to represent it through a local liaison or representative office.

### LIAISON OFFICES: NOMINAL REPRESENTATION WITHOUT COMMERCIAL ACTIVITY

Characteristics	<ul style="list-style-type: none"> <li>• Not a separate legal entity ⇒ invoices and contracts must be issued by the parent company</li> <li>• Not a separate entity for tax purposes ⇒ liaison offices are not subject to corporate tax or VAT because they do not conduct commercial activities</li> </ul>
Operations conducted	<b>Non-commercial</b> operations only: <ul style="list-style-type: none"> <li>• Prospecting</li> <li>• Advertising</li> <li>• Providing information</li> <li>• Storing merchandise</li> <li>• Other operations of a preparatory or auxiliary nature</li> </ul>
Limitations	<p>May be reclassified as a permanent establishment if the office conducts commercial activities, in particular where an employee signs contracts on behalf of the foreign company employing them, or the office fulfills a complete manufacturing cycle, or the office acts as a fixed place of business through which the company conducts all or part of its trade.</p> <p>Companies may ask the tax authorities to rule in advance whether or not their establishment qualifies as a permanent establishment in France (the tax authorities are deemed to have given tacit consent if no reply is received within three months).</p>
Registration	<p>Mandatory when the office has its own premises or is to be used to employ several employees in France. A declaration must be made to:</p> <ul style="list-style-type: none"> <li>• URSSAF in the Bas-Rhin <i>département</i> if the liaison office has employees registered with the French social security system (using the E0 form).</li> <li>• The local corporate tax office (<i>Service des impôts des entreprises</i> – SIE) if the liaison office does not have any employees registered with the French social security system.</li> </ul>

## VARIOUS SALES FORCE OPTIONS

	Sales representatives	Sales agents
Status	VRP ( <i>voyageur de commerce, représentant ou placier</i> – business traveler, representative or traveling salesperson), i.e. a company employee with a special legal status	Self-employed individual or a company acting on the company's behalf.
Role	<ul style="list-style-type: none"> <li>• Intermediaries employed by one or more companies ("Exclusive"/"Multicard" VRP) to visit customers in the representative's sales territory.</li> <li>• Work independently, contacting prospective clients to offer goods and services.</li> <li>• Primary responsibilities are making sales calls, taking orders and submitting these to their employers.</li> <li>• Their office may be reclassified as a permanent establishment of the foreign company employing the VRP if they sign contracts on behalf of the company.</li> </ul>	<ul style="list-style-type: none"> <li>• Responsible for negotiating and, in some cases, signing contracts for sales, purchases, leases and provision of services on behalf of their principals (i.e. not in their own name).</li> <li>• May work for one or more companies.</li> <li>• Responsible for a defined geographical area and/or business sector.</li> </ul>
Legal framework	VRPs have a special legal status according to French law. Should their contract be terminated, for example, they are entitled to receive special financial compensation.	Sales agents are external suppliers, not salaried employees. Except in cases of professional misconduct, when an agreement with an agent is terminated, the agent is entitled to compensation (equivalent, in principle, to two years' worth of gross commissions)
Payment method	Salary and any profit-sharing or commissions with guaranteed minimum	Sales commissions

## II.2 PLANNING FOR THE FUTURE - TWO KEY DECISIONS

Companies can set up a branch or a subsidiary to conduct manufacturing or commercial operations in France through a permanent principal or secondary establishment. Investors are

advised to seek specialist legal advice when setting up long-term operations in France.

	Branch	Subsidiary
Definition	<p><b>Commercial establishment of a French or foreign company</b></p> <p>Not a separate legal entity: parent company has unlimited liability (financial difficulties, legal liability, etc.).</p> <p>Permanent establishment with regard to tax laws and must pay all applicable taxes.</p>	<p><b>A company incorporated under French law, which can conduct any kind of operations</b></p> <p>Legally and fiscally independent from the parent company (segregation of assets)</p> <p>Must pay all applicable taxes.</p>
Characteristics	<p>Headed by a legal representative, functioning like an agency and reporting to headquarters, with no official restrictions on its decision-making powers.</p> <p>Operations of any kind.</p> <p>Not eligible for investment support.</p> <p>Subsequent conversion into a subsidiary must comply with the rules governing the sale and transfer of a business, and is subject to taxation.</p>	<p>Depending on the legal structure selected (SAS, SARL or SA)</p> <p>Operations of any kind.</p> <p>Eligible for government support when starting up or expanding.</p>
Registration in the Company Register ( <i>Registre du commerce et des sociétés</i> – RCS)	Mandatory formality	<ul style="list-style-type: none"> <li>• Mandatory formality: the company becomes a separate legal entity as of the date when it is entered in the Company Register. The founders are personally liable for their legal commitments during the incorporation phase, and these are consequently assumed by the newly incorporated company.</li> <li>• Business creation certificate (<i>récépissé de dépôt de dossier de création d'entreprise</i>) issued to enable company set-up procedures to go ahead, pending the issue of a "K-bis" registration certificate, an official identification document which certifies that the company has been founded.</li> </ul>

	Branch	Subsidiary
Documents required for registration	<ul style="list-style-type: none"> <li>• MO form.</li> <li>• Copy of the parent company's articles (the original and, if necessary, one copy translated into French and certified by the person in charge of the branch).</li> <li>• An original registration certificate issued by the foreign company register in the last three months and translated into French.</li> <li>• Documents relating to the person empowered to act on behalf of the company: identity cards and a police clearance record; residence permit (for non-European directors) and documents certifying the required qualifications if the business is regulated.</li> <li>• Proof of address of the branch.</li> </ul>	<ul style="list-style-type: none"> <li>• MO form.</li> <li>• Original of the articles giving the names of the directors and, where appropriate, the names of the statutory auditors.</li> <li>• A summary, appended to the articles, of the formalities completed on behalf of the new company.</li> <li>• A copy of the lease or ownership deed to the business premises.</li> <li>• A copy of the legal gazette containing notification of the company's establishment.</li> <li>• Copies of the directors' birth certificates, identity cards or passports, or the residence permit(s) of any foreign director(s) ("Business Activity" or "Skills and Expertise" type).</li> <li>• A certified clean criminal record and a representative's mandate.</li> <li>• If appropriate, a copy of the professional license, degree or certificate required to exercise a regulated profession.</li> <li>• A certificate of deposit from a bank for the new company's initial capital reserve.</li> </ul>

### II.3 A 'ONE-STOP SHOP': THE CENTRE DE FORMALITÉS DES ENTREPRISES (CFE)

However you decide to set up your business, all the formalities for creating a new company can be dealt with at the nearest *Centre de formalités des entreprises* (CFE), which are located throughout France. They handle all administrative details in one place, including all the documents required to set up, change or close down companies, and deliver them to the relevant authorities.

It takes a few days for a company or branch to be recorded in the Company Register (*Registre du commerce et des sociétés* – RCS). The cost of administrative formalities is approximately €50, plus the cost of publishing a notice announcing a new company in the legal gazette (approximately €230).

#### • Online formalities

A company or establishment can also be registered online.

#### • Regulated professions

Applications for authorization to engage in regulated or licensed professions or those registered with trade associations (lawyers, accountants, architects, doctors, transporters of goods or people, etc.) must be registered with the respective authorities or professional bodies.

#### • There are different ways of completing formalities at the CFE:

- Perform the procedures yourself, acting under the authority vested by the foreign company as the future legal representative of the company's new establishment in France.
- Delegate powers to an attorney to represent you.
- Delegate powers to one of your personnel or a partner in the company to be founded.

You will be asked to show proof of authorization or power of representation to complete the formalities when filing your application with the CFE.

### IN DETAIL

#### PROTECTING INTELLECTUAL PROPERTY IN FRANCE

The administrative formalities to protect patents, trademarks, designs and models are filed with the French Patent and Trademark Office (INPI). You may also request that legal protections granted in other countries be extended to France and Europe.

**NB:** Company names, trade names, logos and domain names are also protected from their first use and can be cited in unfair competition lawsuits.

Innovation	Duration of legal protection
Patents	20 years
Trademarks	10 years (renewable indefinitely)
Designs and models	25 years

## THE PATH TO CREATING A COMPANY



### IN DETAIL

#### THE PATH TO CREATING A COMPANY

Creating a company involves carrying out a number of steps before and alongside registration. Investors should anticipate the following steps:

1. Defining the investment project and identifying all relevant issues.
2. Drafting a business plan.
3. Seeking public or private investment (loans, venture capital, business angels, mutual investment funds in innovation etc.).
4. Seeking government support at national and/or local level in advance of the investment decision.
5. Choosing advisers.
6. Administrative formalities: registering the company articles with the corporate tax authorities of the registered office's location (free of charge); publishing the notification of establishment in a legal gazette.
7. Seeking business premises and a business address agreement for the company's registered office, a commercial lease or the acquisition of real estate.
8. The type of legal structure for the business (e.g. SAS / SARL or SA).
9. Drafting and signing the company articles (before a notary where the company owns

property) which requires preliminary steps to be taken (address, directors, definition of business etc.).

10. Planning the appointment of the company officers.
11. Obtaining where appropriate (for foreign directors from countries outside the European Economic Area) a long-stay visa and residence permit ("Business Activity" or "Skills and Expertise").
12. Choosing a company name (and ensuring it can be used by conducting searches at the French Patent and Trademark Office (INPI, <http://bases-marques.inpi.fr/>) and the Commercial Court Registry – Greffe du tribunal de commerce).
13. Declaring the domain name of the company website, if one exists.
14. Appointing the statutory auditor(s), where relevant.
15. Evaluating capital contributions in kind by an independent auditor, where relevant.
16. Constituting the share capital: opening a bank account in France and depositing the capital of the company being formed.
17. Registering the articles within a month of their adoption with the tax authorities at the

registered office's location (free of charge).

18. Publishing the notification of establishment in a legal gazette.

Since some of these steps involve procedures in both the country of origin and in France, they may take several weeks to complete.

While founding, or immediately after founding the company, you are required to:

- Where necessary, register internet domain names ending in ".fr" with a registration office designated by the French Internet Names and Cooperation Association (AFNIC).
- Register the company with an insurance center for civil liability insurance (and/or for the contents of your premises).
- Register with an employee retirement plan (mandatory within three months of registration).
- Complete formalities relating to hiring each employee with URSSAF by using a special form (*déclaration préalable à l'embauche* – DPAE).

## CRÉDIT AGRICOLE

### GENERAL GUIDELINES WHEN WORKING WITH BANKS IN FRANCE

Investors should be aware that banks play a key role in the process of registering a company in France. A minimum capital requirement is required to be deposited in a bank account in the name of the French subsidiary, usually an SA or SARL legal form. These funds will only become available once the company is registered by the *Registre du commerce et des sociétés*, the French company register. To open a bank account in France as quickly as possible, investors should carefully consider the following key information.

Firstly, when opening accounts, banks in France must strictly adhere to French and European anti-money laundering regulations, which are based on European Union directives and FATF recommendations (Financial Action Task Force on money laundering). These regulations require financial institutions to maintain a strict client onboarding process, which involves following thorough “Know Your Customer” (KYC) guidelines. Prior to any account opening, this includes ensuring that their prospective customer is free of any suspicion of money laundering or financing terrorism. The anti-money laundering/financial terrorism risk profile determines the bank’s level of due diligence and KYC processes. Consequently, several months may pass before the bank is in a position to confirm its decision on whether or not to proceed, especially if the bank has limited experience with foreign investors.

Investors are therefore strongly advised to prepare all the information required for this process in advance, preferably in French or English. The following is a non-comprehensive list of documents that French banks commonly request:

- Identity of all shareholders (at least those who hold a stake of 10% or more) and the parent company’s ultimate beneficiaries.
- Parent company: Certificate of incorporation or equivalent, decisions of the Board granting powers to individuals, articles and memoranda of association, translated either in English or French.
- Decision of the Board granting powers to individuals to form a subsidiary (particularly needed for the first phase of opening an account).
- Business plan and projections for the French entity.

- Description of the Group’s activities, including recent audited financials, the origin and destination of merchandise and financial transactions, as well as a list of primary counterparties (clients and suppliers).
- Information regarding the background of the Group’s directors and managers.

Selecting a French bank with extensive experience working with foreign investors may significantly ease this process. Regarding finance, foreign investors’ lack of credit history in France, especially with respect to greenfield projects, may delay finance being agreed without the support of the parent company’s bank. A French bank may request, for example, a guarantee or standby letter of credit from the foreign parent company’s bank. Depending on the project and investor risk profile, the bank guarantee may serve to transfer all or part of the counterparty risk to the parent company’s bank. This scenario presents the advantage of eliminating any cross-currency risk for the French subsidiary, since it will be financed entirely in euros. On the other hand, the setup can be somewhat expensive since it takes into account the cost of both the loan in France and that of the international bank guarantee.

A valuable alternative would be to obtain finance from the parent company via an inter-company loan or capital injection. The parent company could then in turn be refinanced by one of its banks in the home country. This solution is generally less expensive, time-consuming and onerous to put in practice, but may expose the French subsidiary to cross-currency risk and to withholding taxes. Each solution merits a detailed analysis on a case-by-case basis to optimize both the cost (interest rate, bank guarantee fees and taxes) and the risk (currency risk and reimbursements) facing investors. Furthermore, there are other types of lending, such as factoring, that are relatively easy to access for recently incorporated companies in the French market that may present a more suitable solution in line with the company’s needs.

**Crédit Agricole CIB**  
INTERNATIONAL SUPPORT DEPARTMENT,  
GROUPE CRÉDIT AGRICOLE

## III. LEGAL STRUCTURES TAILORED TO DIFFERENT NEEDS

### III.1. THE THREE MAIN TYPES OF LIMITED LIABILITY COMPANIES

In this case, financial liability is limited to the amount of owners' capital contributions. Entities such as these can easily be converted into other forms of companies with minimal tax consequences.

The most popular company forms are the *société à responsabilité limitée* (SARL), the *société par actions simplifiée* (SAS) and the *société anonyme* (SA). SARLs and SASs can be formed with a single partner [SAS *unipersonnelle* (SASU) or single-shareholder limited liability company (EURL)], whereas seven shareholders are required for an SA. The SA is the most sophisticated type of French company and is able to launch a public offering.

The SAS (or SAS *unipersonnelle*) is the most recent form of French company and is well suited to holding companies and foreign companies wishing to maintain 100% control of one of their subsidiaries. This option has gained popularity since the reform allowing partners to draft articles setting any level of capital they choose (like for SARLs).

Choosing a legal structure will affect the company's legal status, taxes, assets and employment relations.

#### IN DETAIL

Meetings of boards of directors and supervisory boards may now be held remotely (by video-conference or other means) except in cases where company articles stipulate physical meetings or where annual or consolidated financial statements (in SARLs) and management reports are to be approved.

### III.2. ADDITIONAL OPTIONS ARE AVAILABLE

These are mainly general partnerships (*société en nom collectif* – SNC), non-trading partnerships (*société civile*) and economic interest groupings (*groupement d'intérêt économique* – GIE). They are less common because they require a greater level of partner liability in the event of financial difficulties. However, there are no minimum capital requirements and these structures offer significant levels of flexibility (but decisions must usually be unanimous in SNCs and GIEs) and fiscal transparency that make them attractive as subsidiary companies.

A special form of company – the *société en participation* – is used in the construction industry and in the performing arts and publishing sectors. These are very simple to set up (RCS registration not required) and no legal announcements are required.

#### IN DETAIL

### APPROVAL OF ANNUAL ACCOUNTS

This decision is made by partners or shareholders at the Annual General Meeting.

The decision to approve the accounts must be made no later than six months after closure of the accounts for the financial year. This is essential so that profits can be allocated and any dividends distributed.

All limited liability companies must file:

- Their annual accounts, business report and where applicable their consolidated statement and auditors' reports.
- The motion or resolution regarding allocation of the profits.

A copy of each must be filed with the Commercial Court Registry within one month of the annual accounts being passed (or within two months when the accounts are filed online).

### III.3. INCORPORATING AS A EUROPEAN COMPANY

Businesses present in at least two Member States of the European Union can opt for European Company status (SE for *société européenne*).

In this case, the company benefits from a unique set of regulations and a unified system of management and disclosure of financial details. European Company status allows a firm to operate in different European Union (EU) countries with a single status defined by EU law and common to all EU countries.

SEs have a minimum capital of €120,000. The company's headquarters is stated in the articles, and its location determines the business law that applies to the company: the company is registered in the country where the headquarters is located. SEs are subject to taxation in all EU countries where they have a permanent establishment.

## COMPARISON OF THE MAIN FORMS OF LIMITED LIABILITY COMPANIES IN FRANCE

	<b>Société à responsabilité limitée (SARL)</b>	<b>Société anonyme (SA) usual form (Board of directors)</b>	<b>Société par actions simplifiée (SAS)</b>
<b>Key advantages</b>	At least one partner. Easy to set up and operate.	Structured for “monitored delegation”. Public offerings permitted.	At least one partner. Freedom of constitutional arrangements for relations with shareholders, management and the structure and to transfer capital.
<b>Directors</b>	One or more directors, who must not be corporate entities, but do not need to be partners.	One individual to be the Chairman of the Board and CEO, or two individuals to be Chairman and CEO respectively. Deputy CEOs: up to five. Board of directors: three to 18 members, including one or two non-executive directors representing employees (if their number exceeds the statutory thresholds) and a statutory auditor.	At least one Chairman (individual or corporate entity) and possibly a board with other members. The company can be represented by a person so empowered by the articles (CEO or deputies) in addition to the Chairman.
<b>Director’s status</b>	A director who is a minority, equal shareholder or non-partner can also have an employment contract if certain conditions are met (work as a subordinate, separate from company officer role).  If so, the director is covered by the social security scheme for employees.	The director can also have an employment contract if certain conditions are met (work as a subordinate, separate from company officer role).  If so, the director is covered by the social security scheme for employees.	
<b>Appointment and dismissal of Directors</b>	Decision of partners representing more than half the company shares. Compensation payable for dismissals without due cause.	Decided by the Board of Directors.	Defined by choice in the articles.
<b>Minimum capital</b>	<ul style="list-style-type: none"> <li>No minimum: sufficient capital to finance long-term needs. Partners define the amount in the articles.</li> <li>At least one-fifth of contributions must be paid-up capital when the company is founded and the balance over five years.</li> <li>Restrictions apply to issuing bonds.</li> </ul>	<ul style="list-style-type: none"> <li>Minimum of €37,000.</li> <li>Half the capital must be paid up when the company is founded and the balance over five years.</li> <li>Public offerings permitted.</li> </ul>	<ul style="list-style-type: none"> <li>No minimum: sufficient capital to finance long-term needs. Partners define the amount in the articles.</li> <li>At least half of all contributions must be paid-up capital when the company is founded and the balance over five years.</li> </ul>
<b>Contributions</b>	Sweat equity <sup>1</sup> permitted.	No sweat equity permitted.	Sweat equity permitted.
<b>Partners / shareholders</b>	Two to 100 individuals or corporate entities. Or single shareholder (EURL). At least one meeting per year: annual approval of the accounts, review of contracts by simple majority at Ordinary General Meeting.	At least seven (with at least one individual). At least one meeting per year: annual approval of the accounts and ordinary decisions by simple majority at Ordinary General Meeting, changes to the articles require a two-thirds majority at Extraordinary General Meeting.	At least one (SAS <i>unipersonnelle</i> ) individual or corporate entity. Only certain decisions made by Ordinary General Meeting: approval of the accounts, mergers, changes in capital, liquidation.
<b>Liability of partners / shareholders</b>	Limited to contributions, except in civil or criminal lawsuits	Limited to contributions, except in civil or criminal lawsuits	Limited to contributions, except in civil or criminal lawsuits
<b>Transfers</b>	Buyer pays a 3% filing fee. Equal deduction for each share, to the ratio between €23,000 and the total number of shares in the company.	Buyer pays a filing fee of 0.1%	
<b>Auditors</b>	Auditor necessary if company exceeds two of the three thresholds below: net turnover over €3.1 million; total balance sheet over €1.55 million; more than 50 employees.	Statutory auditor required.	Statutory auditor required for companies held by (or holding) another company OTHERWISE Statutory auditor required if company exceeds two of the following three thresholds: Pre-tax turnover > €2 million; total balance sheet > €1 million; over 20 employees.
<b>Tax system</b>	Corporate tax <sup>2</sup> or option of paying income tax (if company is less than five years old and has fewer than 50 employees) or if the company comprises members of the same family.	Corporate tax or option of paying income tax (subject to certain conditions).	

1- Sweat equity: a partner offers the company his time, work and professional knowledge. Does not contribute to capital formation but has right to shares in company (share of profits and participation in collective decisions).

2- For a SARL comprising only one private individual: income tax or irreversible option to pay corporate tax.



## IV - PARTNERSHIPS AND TAKEOVERS

French law makes full provision for business partnerships and takeovers.

### IV.1 - ACQUIRING EQUITY IN A COMPANY

#### Clear rules to ensure transparency

Buyers are required to make certain disclosures when more than 5% of the shares or voting rights in a listed company are likely to change hands:

- A declaration must be filed with the financial market authority within five days.
- The target company must be notified within 15 days.

The same rules apply to transactions that exceed thresholds, up or down, of 10%, 15%, 20%, 25%, 30%, 33%, 50%, 66%, 90% and 95% of the shares or voting rights.

When buyers intend to acquire more than 30% of the shares in a listed company, they are required to make a bid for all of the outstanding shares so that minority shareholders have an opportunity to sell their shares.

#### FOR FURTHER INFORMATION:

Please visit the [French Financial Market Authority website](#)

#### Prior notification to competition authorities of concentrations between undertakings

Concentrations between undertakings are defined as follows:

- Mergers of two or more independent companies.
- Full or partial takeovers.
- Creation of joint ventures that conduct their business independently on a long-term basis.

In principle, concentrations are authorized, however large concentrations may require prior authorization from national or European Union authorities. Restrictions on concentration are intended to ensure that market dominance by a single company does not distort competition.

Concentrations require the prior authorization of the French Competition Authority (*Autorité de la concurrence* – an independent body) if:

- The aggregate turnover of the companies concerned exceeds €150 million, excluding tax, and
- The aggregate turnover of at least two of the companies in France exceeds €50 million, excluding tax, and
- Turnover remains below EU thresholds.

Specific thresholds have been set for the retail distribution sector (lower notification threshold) and for companies conducting all or part of their operations in France's overseas territories.

The French Competition Authority's decision will be made within 25 working days of the date when full notification procedure documentation is submitted. However if the transaction is likely to distort competition, the Competition Authority may open a second phase in order to conduct a more extensive analysis of the transaction (in principle, a period of up to 65 days is set aside for this second phase).

The European Commission must be notified of concentrations between undertakings if:

- The aggregate global turnover of the companies concerned are more than €5 billion, and
- Individual turnover of at least two of the companies concerned in the European Union totals more than €250 million, except if turnover within a single country accounts for more than two-thirds of each of the companies' total European Union turnover.

The European Commission must also be notified of concentrations that do not exceed the above thresholds if they affect three or more European Union countries.

The procedure can take up to eight months and the concentration is frozen until authorization is granted.

#### FOR FURTHER INFORMATION:

Please visit the [French Competition Authority website](#)

### IV.2 - MANAGEMENT LEASE: A FLEXIBLE TEMPORARY TAKEOVER OPTION

Management leases grant authorization to operate a business without having to buy it outright.

The owner or operator of the business or manufacturing establishment signs a contract with a lessee, who manages the leased company at his own risk and pays a lease payment. The owner collects the lease payments and has no say in the management of the leased business.

A management lease is a temporary solution that can be used to assess the viability of a business. At the end of the lease, the company may be sold or transferred to the lessee.

### IV.3 - PROCEDURES FOR ACQUIRING AN AILING COMPANY

French law on ailing companies has been simplified in recent years, particularly the regulations concerning the takeover of such companies.

A procedure affording protection before insolvency (*procédure de sauvegarde*) can now be undertaken when a company's difficulties are such that it cannot overcome them alone. This preventive procedure does not provide for the sale of all or part of company assets, for which liquidation proceedings are necessary.



Reorganization (*redressement judiciaire*) is a form of bankruptcy protection that takes place when a company is insolvent and its assets are not enough to cover liabilities. The aim of this procedure is to facilitate the drafting of a plan that will enable the company to remain in operation, maintain jobs and reduce its liabilities.

Once either of these two procedures has been initiated, third parties may submit offers to the administrator to save the company as a going concern, through the total or partial sale of business.

Buyers must make their offers to the commercial court-appointed administrator before the deadline set in the court ruling initiating the proceedings (court rulings are published in the legal gazette *Bulletin officiel des annonces civiles et commerciales*).

### The best acquisition solution preferred by judges

During **liquidation procedures**, judges evaluate each potential buyer's bid by the prospects it offers of keeping all or part of the company in business, saving jobs and repaying creditors.

Part or all of a company's assets may be sold to ensure that those operations that can be conducted independently remain in business, to preserve all or part of the associated jobs, and to reduce liabilities.

Offers must include a detailed list of assets, rights and contracts included in the offer; a business recovery plan and financing forecasts; the purchase price and how this will be paid; information about the providers of funds and any guarantors (if the offer is based on loans, it must specify terms and duration), the date of sale, job numbers and outlook based on projected operations, financial guarantees underpinning execution, asset disposal plans for the next two years, and the duration of each commitment made by the buyer.

Offers cannot be amended or withdrawn once they have been filed with the Commercial Court Registry except for amendments that improve conditions for employees and creditors, which may be presented up to 48 hours prior to the hearing. The court then decides whether to make a partial or full sale of the business and gives the reasons for its decision.

Some contracts may be transferred to the new owner, including employment contracts, equipment and finance leases, supply contracts for goods and services necessary to keep the business going, stock pledge agreements, contracts with customers, etc.

If no solution can be found to keep a business going or if recovery is clearly impossible, the court will liquidate the ailing company and the assets will be sold to the highest bidders once the court proceedings have been completed.

## V - CORPORATE REAL ESTATE TO MEET VARIOUS NEEDS

### V.1 - SHORT-TERM, LOW-COST SOLUTIONS

Several solutions exist to meet temporary needs:

- Setting up the company's registered office and conducting business at a director's personal address, subject to certain conditions.
- Setting up the company's registered office in a business center (*centre d'affaires* or *centre de domiciliation*) offering services such as answering telephone calls, meeting rooms, mailboxes, etc.
- Premises offered by local authorities, such as business incubators (*couveuses*, *pépinières d'entreprises*) or temporary manufacturing facilities (*ateliers-relais*).
- Fixed-term leasing of office space: sub-letting subject to agreement from the owner of the building, or through the signature of a short-term lease (up to 24 months).

### V.2 - LONG-TERM OPTIONS

Various solutions, offering different degrees of legal security, exist for long-term investments, in accordance with the needs of the company.

- A commercial lease; the most common option
- Long- and very-long term leases

### V.3 - PURCHASING PROPERTY - SEVERAL OPTIONS AVAILABLE

#### Full ownership

Foreign companies are entitled to buy commercial and industrial land and buildings from private- and public-sector owners. Real-estate agents can help them find suitable properties. The laws governing property purchases and the services of intermediaries such as notaries ensure the legal security of real-estate transactions. Government support for real estate purchases may be available, subject to certain conditions.

#### Leasing to own is a common practice

Under this method, companies can finance buildings without making a down payment. Furthermore, all finance lease payments are tax deductible. Companies acquire industrial and commercial buildings by signing a property finance lease. Such leases generally run for nine to 15 years and title to the property is transferred to the tenant at the end of the term.

Local authorities may help companies obtain finance leases by arranging meetings with financing organizations. Government investment support in the form of discounts on finance lease payments is also available subject to certain conditions.

## Construction of industrial and commercial buildings

Local planning regulations show areas in which construction is allowed and mayors have the power to issue planning permission. The local *mairie* (municipal offices) offers land owners and other persons entitled to erect buildings a one-stop service for construction permit applications.

### Commercial buildings – possible additional permit

The construction of a retail outlet or commercial premises with a surface area of more than 1,000 sq. m. requires a commercial urban planning operating permit, in addition to a construction permit. A Commercial Urban Planning Commission (*Commission d'aménagement commercial – CDAC*) at the local *Préfecture* oversees the application procedures. The CDAC must make its decision first before a construction permit can be obtained and commercial operations set up.

A number of business activities do not require this special permit, such as hotels, service stations and motor vehicle dealerships.

### Acquiring premises through a real estate partnership (SCI), offering greater protection and tax benefits

A real estate partnership (*société civile immobilière – SCI*) is a separate legal entity where the capital is contributed by companies or individuals. It is used to finance premises that can then be occupied by the company operating the business. This solution protects the real-estate assets from the operating company's creditors. It can also provide tax benefits, since the company can deduct rent and maintenance fees from its taxable income and the partnership can deduct acquisition costs for the buildings if it opts to pay corporate tax.

Investors should seek legal advice to work out the details of such an arrangement.

## IN DETAIL

### CONSTRUCTION PERMITS

Construction permit applications must be filed with the local municipal offices with jurisdiction over the land. Applications comprise a form and a portfolio of drawings and written documents that will enable the authorities to ensure that the application is compliant with urban planning regulations. Applicants must use the services of an architect when preparing their applications. The timescale for the procedure is up to three months from the date the completed application is filed. If the application file is incomplete, the relevant authority has one month in which to request further documents. The review period may be lengthened in a number of defined cases involving mandatory prior consultation exercises, existing safeguards (protected districts, national parks, historic monuments, etc.) and mandatory prior authorization or permits.

When planned construction work concerns a regulated facility (ICPE), the construction permit application needs to include proof that a permit or registration or declaration application has been filed with the *Préfecture* in application of the ICPE legislation. When regulated facilities require a public inquiry, any work covered by a construction permit may only be carried out after the public inquiry is concluded.

	Definition	Characteristics
Commercial lease	Statutory term of nine years, but tenants can terminate the lease at the end of the third or sixth year.	Tenants register with a company register (except for independent contractors) and are legally protected against non-renewal or eviction. The lessor must pay eviction compensation proportionate to the value of the business and the right to the lease.  Rent increases are capped. The lease stipulates the commercial purpose of the premises ( <i>activité</i> ), but the parties to the lease can agree to amend the lease to change the initial purpose or add another activity ( <i>désécialisation</i> ).
Long- or very-long term lease ( <i>bail emphytéotique</i> )	Particularly suited to activities of an industrial nature, or those requiring a long run-in before turning profitable.  Valid for between 18 and 99 years.	Such leases confer real rights to holders (which they may subsequently mortgage) over undeveloped or developed land. Companies can therefore erect new buildings or conduct necessary repair work to existing ones, including structural work.

## VI. REGULATED FACILITIES (ICPEs)

Concern for preventing hazards, pollution and other environmental nuisances means that preliminary administrative formalities are required before operating certain types of manufacturing plants.

The **State Prefect** in the *département* where the plant is located is the **authority responsible** for regulated facilities (*installations classées pour la protection de l'environnement* – ICPEs – aka “classified installations” in France). The **Regional Directorate for the Environment, Development and Housing** (*Direction régionale de l'environnement, de l'aménagement et du logement* – DREAL), which is part of central government in France's regions and comes under the authority of the Prefect and the Minister responsible for the environment, **processes application case files**. The legislation on regulated facilities is largely shaped at European Union level, with Member States having transferred their decision-making powers on all environmental matters to the EU. The legislation most commonly takes the form of directives, which require national implementing measures to transpose them into national law.

### VI.1 - DIFFERENT PROCEDURES DEPENDING ON THE EXTENT OF RISKS AND POLLUTION

Each activity covered by legislation on regulated facilities (ICPEs) is categorized in a **nomenclature** (cf. ‘Useful Contacts’ page, Ministry for the Environment) that determines the obligations it must meet according to the level of risk it poses. The three prescribed procedures are, in decreasing order of risk level, application for a **permit** (A or AS for permit with public utility easement), **registration** (E), and **declaration** (D). The nomenclature identifies the procedure to be followed for each facility.

The **prospective operator is responsible** for identifying the categories of the nomenclature that apply to the facility. It should be noted that a facility may be affected by one or more categories of the nomenclature, for both the **business activity** it conducts and the **substances stored or used** at the site. When several categories of the nomenclature are applicable at the same site, the most restrictive category shall be applied across the entire site.

Technological developments or new information on risks may prompt changes in the nomenclature. Such changes may result in the reclassification of some facilities. Should a non-regulated facility become a regulated facility (new nomenclature category or change in thresholds), the facility will enjoy acquired rights, provided that the operator makes a simplified declaration to the *Préfecture* within one year of the decree changing the nomenclature coming into effect. A facility initially requiring declaration and now subject to the permit procedure following a change in nomenclature (lowering or harmonization of thresholds) will be entitled to continue its activity if it has been duly declared.

Operation of a site can only begin once the declaration or registration procedures have been completed or the permit has been obtained, otherwise the operator may be liable to administrative or criminal sanctions.

**New for 2016-17:** A simpler procedure via an online service at <https://www.service-public.fr/professionnels-entreprises/vosdroits/R42920>, operational as of January 12, 2016. To facilitate communication between companies and the authorities, and speed up the procedures, **all forms relating to regulated facilities** can now be completed online (declarations, changes, change of operator, cessation of activities). Since March 1, 2017, projects requiring an ICPE permit, as well as projects requiring a permit for facilities, structures, and operations subject to water legislation, need to obtain a single permit (after the transition period comes to a close on June 30, 2017). Investors can request that a project certificate be granted to identify which procedure the project falls under, and to confirm a mutually agreed schedule with the project owner for the project to be processed.

### IN DETAIL

#### ICPE Nomenclature - extract

Category	Description of the category	Procedure
2662	Polymers (plastics, rubber, elastomers, resins and synthetic adhesives) (storage of) The volume liable to be stored being:	
	1 - Equal to or greater than 40,000m <sup>3</sup>	A
	2 - Equal to or greater than 1,000m <sup>3</sup> , but less than 40,000m <sup>3</sup>	E
	3 - Equal to or greater than 100 m <sup>3</sup>	D

A: Permit (*autorisation*); E: Registration (*enregistrement*); D: Declaration;  
S: Public utility easement (*servitude d'utilité publique*)

**Brownfield sites:** The database at <http://basol.developpement-durable.gouv.fr/> identifies polluted (or potentially polluted) brownfield sites in need of preventive or remedial action from the public authorities. Investors interested in taking over brownfield sites can use this resource to ascertain the pollution levels of sites currently undergoing rehabilitation.

## VI.2 - DECLARATION

Activities that cause the least pollution and hazards are obliged to submit a declaration. This is a simple procedure whereby the prospective facility operator submits a declaration application, including supporting documents, indicating the nature and volume of the planned operations as well as the name(s) of their section(s) in the nomenclature to the Prefect of the *département* before the operations begin.

The Préfecture has two months to review the application and if it is complete and compliant, the Prefect issues the operator with:

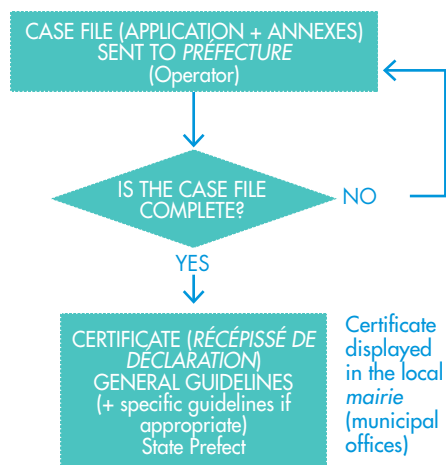
- A certificate (*récépissé de déclaration*).
- A copy of the general guidelines for the facility (minimum precautions for the operator to follow).

These documents enable the operator to begin operations.

### FOR FURTHER INFORMATION:

The full list of supporting documents for the declaration application can be found in article R512-47 of the French Environmental Code

### DECLARATION PROCEDURE



## VI.3 - REGISTRATION

### Facilities required to register

The system of registering regulated facilities, which falls between the declaration and permit procedures, is applicable when the

risk is controlled. This simplified authorization procedure designed for standardized facilities (sectors or technologies with well-understood environmental impacts and hazards), which are not located in environmental conservation areas, applies to facilities such as service stations, warehouses containing flammable materials (wood, paper, plastic, polymers), refrigerated warehouses, polymer processing, mechanical metal and alloy work, certain facilities that collect or conduct methanogenesis of non-hazardous waste, and certain facilities that prepare or store animal-derived food stuffs.

The technical measures to be taken for risk and nuisance prevention are set out as general requirements in a government order. The registration procedure is therefore based on standardized guidelines or universal requirements and not on requirements specific to each facility. These guidelines are published in the Official Journal of the French Republic (Orders on general requirements) and in online manuals available on the ICPE section of the French Environment Ministry website. Unlike the permit procedure, registration requires neither an impact study nor a public inquiry.

### Registration procedure

The prospective facility operator must submit the registration case file (application plus supporting documents) to the Prefect of the local *département* before they begin operations.

The key document for the registration case file is a document vouching that the general guidelines applicable to the facility have been followed. The applicant must prove that the site's operating conditions guarantee compliance with all of the applicable requirements, and that it has the technical and financial capacity both to operate the facility and to rehabilitate the site after it has been permanently decommissioned. Decree No. 2015-1614 of December 9, 2015 introduced changes to the ICPE registration procedure in order to:

- Improve public participation by making the facility registration application file available to the public on the *Préfecture's* website.
- Incorporate the elements required by Directive 2014/52/EU of April 16, 2014 in the registration file: a description of the project's significant effects on the environment (through the description of the physical characteristics of the whole project and of its location), the likely environmental impacts of the project as a whole and the significant effects resulting from residues, emissions, and waste production, or from the use of natural resources.
- To simplify the format of the registration application file: a national template will be published soon in an order.

When setting up the facility also requires a construction permit to be obtained, a receipt for the construction permit application lodged with the *mairie* (municipal offices) must be included with the registration application or forwarded within 10 days. These are two distinct procedures covered by two separate

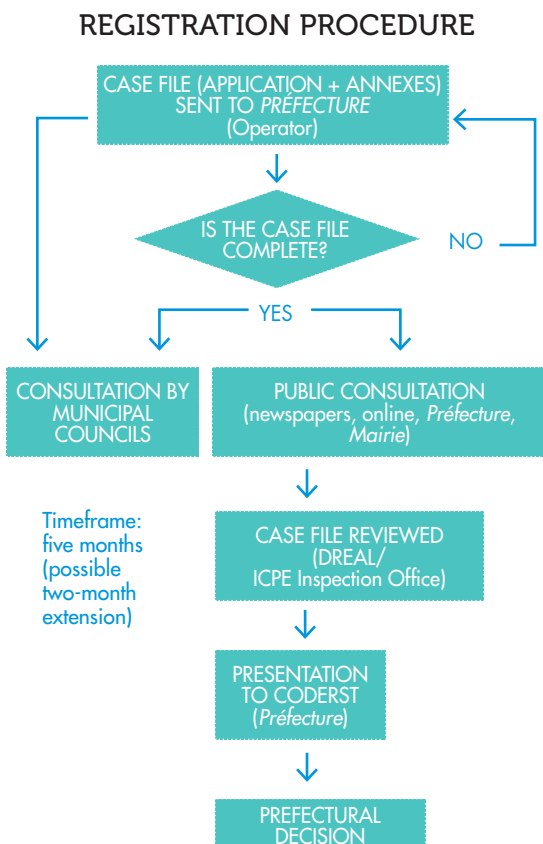
sets of regulations: the registration procedure is governed by the legislation on regulated facilities, whereas the construction permit procedure is governed by urban planning legislation. The registration procedure includes an application inspection phase, followed by a consultation phase and a review phase, following which the Prefect issues an official order (cf. diagram). The review period for a complete case file is five months, after which time the Prefect issues a registration order or rejects the application.

In certain circumstances, the review period may be extended by two months. In such cases, the Prefect alerts the operator and explains the reasons for the extension.

In certain instances stipulated in the French Environmental Code (concerning the location of the facility and the sensitivity of the environment), a registration application may be reviewed according to the process used for the permit application procedure. In such cases, the file must include a safety report and impact assessment, as required for the permit application procedure.

#### FOR FURTHER INFORMATION:

The full list of supporting documents for the registration application can be found in articles R512-46-3 and R512-46-4 of the French Environmental Code. The Ministerial Orders on general requirements applicable to facilities required to register and the corresponding guidelines, specifying the evidence of compliance to be produced by manufacturers, can be downloaded from: [www.ineris.fr/aida/consultation\\_document/10361](http://www.ineris.fr/aida/consultation_document/10361)



## VI.4 - PERMIT (AUTORISATION)

### Facilities that require a permit

Businesses that can cause hazards or serious damage to the environment must obtain a permit, in this case issued as an order (*arrêté*), from the Prefect. Permits are required mainly for businesses falling within the scope of the European Union “Seveso” or “IED” (industrial emissions) directives.

#### Permit procedure

Businesses must complete a permit case file (application plus supporting documents) and send it to the Prefect of the local *département*. The application must include plans and a detailed description of the facility as well as two studies conducted by the manufacturer itself, generally with the assistance of an environmental consulting firm:

- A safety report (identifying the risk of accidents and indicating the measures planned to reduce those risks).
- An impact study (environmental impact and the measures taken to attenuate these effects).

When setting up the facility also requires a construction permit to be obtained, a receipt for the construction permit application lodged with the *mairie* (municipal offices) must be included with the permit application or forwarded within 10 days.

The permit procedure includes an application assessment phase (4-5 months), followed by a public inquiry phase (3 months), and a review phase (2-3 months). The consultation phase involves a number of different government departments (central government divisions in France’s regions responsible for health, the environment, urban planning, agriculture, public safety), in addition to local authorities and residents’ associations. Local residents are consulted through a public inquiry, during which the public is notified and invited to comment. Work subject to a construction permit can be executed once the public inquiry has been concluded.

Once the review has been completed, the Regional Directorate for the Environment, Development and Housing (DREAL; a regional branch of the French Environment Ministry) draws up a report presenting its recommendation to the Prefect. Finally, the project is brought before an advisory body, the local *Département* Council for the Environment & Health and Technology Risks (CODERST), which also issues an opinion. The Prefect bases its final decision on all of these elements and the outcome of the public inquiry.

The Prefect’s order authorizing operations at the facility sets out the operating requirements with which the operator must comply. In principle, this order should be issued no more than nine months after the application is filed.

Prospective operators are recommended to contact the DREAL, which will process the case file, in advance of submitting the case file to the *Préfecture*. The DREAL may be contacted by project owners throughout the compilation of the case file to offer advice and support.

**FOR FURTHER INFORMATION:**

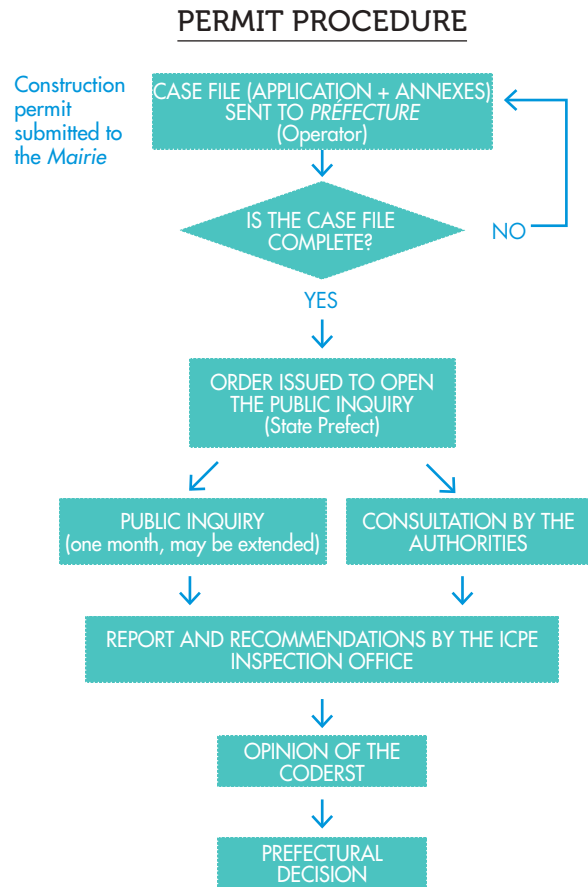
The full list of supporting documents for the permit application can be found in articles R512-2 and R512-10 of the French Environmental Code.

**VI.5 - TAKING OVER A REGULATED FACILITY**

When a regulated facility changes owners, the new operator must make a declaration to the Prefect within one month of assuming ownership of the operation. A permit is required from the *Préfecture* for facilities subject to financial guarantees. The Prefect issues a ruling within three months from the date the application is received.

**VI.6 - ONGOING OPERATIONS AT REGULATED FACILITIES**

Integrating environment management into ongoing operations at a regulated facility, in accordance with international or European standards, is particularly important for foreign investors (establishing certification, legal monitoring of regulatory changes such as changes to the nomenclature, audit when operations cease, etc.).





CHAPTER





# FRENCH EMPLOYMENT LAW

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# FRENCH EMPLOYMENT LAW

French employment law has been undergoing significant changes in recent years to streamline and modernize the labor market. Companies have a variety of options enabling them to build their French workforce effectively, and to manage and incentivize their personnel.

This modernization is being complemented by measures seeking to reduce labor costs, not only for low earners (no employer social security contributions payable) and middle-income earners (competitiveness and employment tax credit on salaries up to €3,700 gross per month), but also for researchers (research tax credit and “innovative new company” status). The hiring of young and senior jobseekers is also being encouraged.

## I. EMPLOYMENT RELATIONS WITHIN A COMPANY

### I.1 - A FREELY NEGOTIATED EMPLOYMENT CONTRACT

Employers can hire employees according to their needs using a variety of different employment contracts.

#### PERMANENT CONTRACT (CONTRAT À DURÉE INDÉTERMINÉE – CDI)

**Requirement:** To fill a permanent position within the company.

**Format and language:** Although permanent contracts do not necessarily have to be a written document, they are usually documented, and when so must be written in French. Employees whose native language is not French may request a translation prior to signature.

**Clauses:** An employment contract must stipulate the employee’s pay and job description, along with their working hours and place of work. In principle, parties are free to write their own contracts and have a great deal of liberty with regard to content, which may include clauses specifying targets for pay, providing for geographical mobility, or requiring employees to assume different professional roles, as well as non-compete clauses, or clauses covering ownership of inventions and intellectual property rights, etc.

#### Employee remuneration:

- The statutory national minimum wage (SMIC), set on January 1 every year, is €9.76 gross per hour as of 2017. This amounts to €1,480.27 per month for a 35-hour work week, or €1,665 per month for a 39-hour work week including a 10% increase for overtime hours (between 35 and 39 hours), rising to €1,681.7 in the case of an increase of 25%.

- The contract may also provide for additional benefits and a profit-sharing scheme

**Probationary period:** Probationary periods give employers a chance to evaluate an employee’s skills. Employers can terminate an employment contract during the probationary period without having to provide grounds or severance pay.

The probationary period and the terms of its renewal must be clearly stated, either in the appointment letter or the employment contract, in order to be enforceable.

#### Probationary period length:

- Up to two months for those with *ouvrier* (worker) and *employé* (employee) status.
  - Up to three months for those with *agent de maîtrise* (a higher employee status) and *technicien* (technician) status.
  - Up to four months for those with *cadre* status (another higher employee status, including, but not exclusively, managers).
- Probationary periods can be extended once for up to four, six and eight months (including the renewal period) depending on the employee’s position and whether an industry-specific collective agreement authorizes this.

#### FOR FURTHER INFORMATION:

Company directors are bound to their company not by employment contracts but by corporate appointments. The terms of their appointment, pay and dismissal are freely determined in the company’s articles. However, subject to certain restrictions, some directors may sign employment contracts with their companies for distinct positions (e.g. the CEO or Managing Director of a *société anonyme* (SA), the Chairman of a *société anonyme* or a *société par actions simplifiée* (SAS) and a Company Director with minority interests in a *société à responsabilité limitée* (SARL)).

## FIXED-TERM CONTRACT (CONTRAT À DURÉE DÉTERMINÉE – CDD)

Extra employees can be hired for a limited time to meet temporary needs.

**Requirement:** Reasons for temporary contracts are stipulated by law: temporary increase in the company's business; seasonal work; 'standard' fixed-term contracts (in line with certain practices within a given profession); a special assignment for a skilled employee or an engineer, subject to specific terms; replacement of an absent employee; replacement of an employee who has temporarily moved to part-time work; gap before a new employee takes up their post. Fixed-term contracts cannot however be used on a long-term basis to fill jobs that are related to the company's regular business.

**Format and language:** Must be in writing and drawn up in French.

**Clauses:** The contract must specify in particular the duration of the assignment and the reason why the contract is being made.

**Probationary period:** Probationary periods give employers a chance to evaluate an employee's skills.

Employers can terminate an employment contract during the probationary period without having to provide grounds or severance pay. The probationary period and the terms of its renewal must be

clearly stated, either in the appointment letter or the employment contract, in order to be enforceable.

The probationary period under fixed-term contracts of up to six months is one day per week of the contract, and may not exceed two weeks. The probationary period for longer contracts may not exceed one month.

**Maximum contract duration:** Depending on the reason for the fixed-term contract, 18 months at most, or until the absent colleague returns. It is possible to draft fixed-term fixed-purpose contracts for managers and engineers of between 18 and 36 months to complete an assignment specified in the contract. Provision must however be made for this in an industry-specific collective agreement where one exists, or if not in a company-wide agreement. A "senior" fixed-purpose contract may also be agreed with a jobseeker aged 57 and over.

**Severance pay:** Employees are entitled to severance pay when a fixed-term contract ends and is not followed up with a permanent contract. This severance package amounts to 10% of total gross pay received during the term of the contract. However, an extended industry-specific collective agreement (or establishment- or company-wide agreement) may limit this amount to 6%. In such cases, the employee must be compensated for the difference, which is mostly provided in the form of preferential enrollment in vocational training courses (training initiative, skills assessment).

## IN DETAIL

### SUBSIDIZED EMPLOYMENT CONTRACTS

There are a number of specific contracts that can be used to recruit employees with medium- or long-term training needs. These contracts entitle businesses to recruitment aid.

	Purpose of contract	Special features and aid
<b>Apprenticeship contract (Contrat d'apprentissage)</b>  <b>Program to boost apprenticeships: 500,000 more apprentices by 2017</b>	For 16- to 25-year-olds on a work-study contract alternating academic training at an apprentice training center ( <i>centre de formation d'apprentis</i> – CFA) and vocational training in a company.	<b>Contract length:</b> - One to three years depending on the profession and the degree the apprentice is working towards. - Or for an indefinite length of time, including an apprenticeship period. <b>Salary:</b> 25-78% of the statutory national minimum wage (SMIC) depending on the apprentice's age and stage of the training cycle. <b>Employment support:</b> - Regional grants: €1,000 per year of training for companies with fewer than 11 employees. €1,000 in the first year of training for companies with fewer than 250 employees (can be combined with previous grant). - Tax credit of €1,600 or €2,200 per apprentice. - Partial exemption from employer social security contributions.
<b>Professional training contract (Contrat de professionnalisation)</b>	For candidates enrolled in a social inclusion program, or 16- to 25-year-olds completing their education in a six- to 12-month professional training initiative (renewable once). Work-study contract.	<b>Contract length:</b> Permanent or fixed-term. <b>Salary:</b> 55-100% of the statutory national minimum wage (SMIC) depending on the candidate's age and qualifications. <b>Employment support:</b> Reimbursement for the costs of training a mentor and in some cases partial exemption from certain employer social security contributions, along with a grant of up to €2,000, subject to certain conditions.
<b>Intergenerational contract<sup>1</sup> (Contrat de génération)</b>	Program whereby a permanent contract is given to a young employee at the same time as a senior employee is recruited or retained in their post. The goal is to ensure that knowledge and skills are passed down.	<b>Companies with fewer than 300 employees:</b> €4,000 to €8,000 grant per year, for three years.

<sup>1</sup> Companies with 300 or more employees must prove that they have implemented an industry-specific agreement, a company-wide agreement, or an action plan relating to "intergenerational contracts", failing which they may be subject to a fine.

## IN DETAIL

### COLLECTIVE AGREEMENTS

Parties are free to substitute replace certain legislative and regulatory provisions by collective agreements as long as these agreements do not contravene the law. Such agreements include:

- Inter-professional agreements reached at national level to ensure a cohesive overall system.
- Industry-specific agreements covering a given profession, which must stipulate: minimum wage levels, job classification, collective guarantees for insurance and pooling of training funds.
- Company or establishment agreements reflecting specific features of a company and its employees.

Company or establishment agreements can override industry-specific agreements or collective agreements as long as the latter are not mandatory or do not expressly exclude this. Moreover, employers can organize the working hours of their employees on the basis of a company-wide agreement that can override higher-level agreements.

#### FOR FURTHER INFORMATION:

The company's business activity, as stated in its articles, determines which collective agreement is applicable. [www.legifrance.gouv.fr](http://www.legifrance.gouv.fr) (*conventions collectives / collective agreements*)

## CHANGING AN EMPLOYEE'S CONTRACT

### Changing an essential component of an employment contract

Essential components are pay, qualifications, and more generally, the work assigned to the employee or any other element which might have been a determining factor for the employee when they signed the contract (providing it was expressed in a clear and precise clause).

In this case, the employer cannot impose a change to the contract but must propose the change to the employee. If the employee refuses, it is up to the employer either to decide against the change or to dismiss the employee.

For example: a change from day work to night work is a substantial change; a relocation of the workplace from the north to the south of France is a substantial change, unless mobility clauses in the contract provide for this.

To enact simple changes to working conditions, employers can draw upon their remit of managerial authority. Refusal on the part of the employee does not lead automatically to contract termination but may constitute professional misconduct which the employer could invoke to dismiss them on these grounds.

## IN DETAIL

### NEGOTIATING CONDITIONS FOR INTERNAL EMPLOYEE MOBILITY

Employers may enter into a company-wide agreement with employee representatives to negotiate the conditions for professional and geographic internal employee mobility within the framework of standard collective measures. Employee agreement is required; otherwise employees can only be dismissed on economic grounds.

## IN DETAIL

### EMPLOYEE RECRUITMENT AND TRAINING

Recruitment support services exist in France for you to find the right employees for your company.

#### FINDING AND RECRUITING EMPLOYEES

France's National Employment Office (*Pôle Emploi*) can help companies by publicizing their vacancies, identifying and short-listing candidates, as well as offering and organizing training courses for candidates. <http://www.pole-emploi.fr>

#### TRAINING YOUR EMPLOYEES

Central government and regional councils, which are responsible for vocational training, can also organize training courses to upgrade and improve the skills of certain categories of prospective employees to suit the needs of companies locating in France. Based on the company's provisional training program, it is possible to receive support for training current and prospective employees. These funds are intended to cover a portion of training costs outsourced to a vocational training center and/or courses held inside the company (see Booklet 3 for further information).

#### RECRUITMENT TAX BREAKS AND SOCIAL SECURITY REDUCTIONS

These are in the form of reduced social security contributions (relief on low salaries or exemptions in certain regional zones) and grants for hiring certain categories of employees (state-subsidized contracts for certain categories of employees). Since January 1, 2010, all companies have the right to request a *rescrit social* (advance social security ruling) called *aide à l'emploi* (subsidized employment) which advises them on their eligibility for these forms of support. This advance ruling should be forwarded to the body responsible for collecting the relevant social security contributions (in most cases, URSSAF).

## SIMPLE HIRING PROCEDURES THAT CAN ALSO BE COMPLETED ONLINE

The administrative formalities involved in hiring employees have been streamlined with the introduction of a **pre-hiring declaration form** for new employees (*déclaration préalable à l'embauche* – DPAE). The employer must complete the form in the eight-day period before a new employee starts work and send it to the local URSSAF office. The form can also be submitted online.

As such, the following can be carried out in a single procedure: registering the employee with the social security system (unless on secondment/posting) and with occupational health, organizing the mandatory medical examination (during the probationary period), and registering with the unemployment insurance body (*Pôle Emploi*).

### • In addition to the DPAE, employers must also:

- Declare the first employee hired to the labor inspection.
- Register with supplementary retirement funds within three months of setting up the business.
- Carry out the necessary procedures for hiring a foreign employee (excluding European nationals).

## IN DETAIL

### THE “TITRE FIRMES ÉTRANGÈRES” (TFE – FOREIGN COMPANY STATUS)

#### SIMPLIFIES EMPLOYMENT FORMALITIES FOR FOREIGN COMPANIES WITH NO PERMANENT ESTABLISHMENT IN FRANCE

Thanks to this status, foreign companies without a permanent establishment in France employing personnel under French social security arrangements send a simplified form every month to the National Center for Foreign Firms, which performs the following tasks:

- Calculates the applicable social security contributions on the employee’s gross salary and pays them into the social security system.
- Draws up the pay slip and sends it to the company to give to the employee.
- Files the required social security declarations.

#### FOR FURTHER INFORMATION:

[www.tfe.urssaf.fr](http://www.tfe.urssaf.fr)

## I.2 -TERMINATING A PERMANENT EMPLOYMENT CONTRACT BY MUTUAL CONSENT

A fairly flexible procedure exists whereby an employer and employee can mutually agree to negotiate an amicable termination to a permanent employment contract.

An interview is required to enable both the employer and the employee to agree upon the termination and to determine the

accompanying conditions. The employee may be assisted by a person of their choice from among the company personnel.

The employer and employee sign a contract termination agreement, setting out the termination date and the payment due to the employee. They then have 15 calendar days during which they can withdraw their position. The agreement must then be ratified within 15 days by the local employment authorities (*Unité territoriale* at the *Direction régionale des entreprises, de la concurrence, de la consommation, du travail et de l’emploi* – DIRECCTE – Regional Directorate for Enterprise, Competition, Consumption and Employment). The authorities check that the procedure has been carried out correctly, both parties have provided their consent, and that the amount of severance pay received by the employee from the employer is at least equal to the statutory or contractual severance pay due.

This procedure can only be used following redundancy or resignation, as it cannot be imposed upon the other party. Any legal action can only be taken within 12 months of the date upon which the agreement is ratified.

#### FOR FURTHER INFORMATION:

Online ratification for a mutual consent contract termination:  
[www.telerc.travail.gouv.fr.fr](http://www.telerc.travail.gouv.fr.fr)

## I.3 - LAYOFFS ON ECONOMIC OR PERSONAL GROUNDS

Employees can be dismissed on either economic or personal grounds.

As in many other countries, employers must provide genuine and serious grounds for layoffs, and comply with the legally prescribed procedures, which vary according to the reason for termination, the number of employees concerned, and the number of people employed by the company.

### LAYOFFS ON ECONOMIC GROUNDS: SIMPLIFIED PROCEDURES SINCE JULY 2013

Dismissals for economic reasons arise from job cutbacks or changes, or when an employee rejects a modification to a key component in their employment contract in the wake of one of the following:

- Economic difficulties, i.e. a significant change in one or more economic indicators, such as a decline in orders or sales, operating losses, a deterioration in the company’s cash position, or gross operating profit. A decline in sales (year-on-year) is deemed significant when it lasts at least: one quarter for companies with fewer than 11 employees; two quarters for companies with between 11 and 50 employees; three quarters for companies with between 50 and 300 employees; four quarters for companies with at least 300 employees.
- Technological changes.

- Restructuring to protect the company's competitiveness.
- Cessation of operations.

**If the layoff involves fewer than 10 employees over a 30-day period**, each employee must be asked to attend a preliminary interview. Layoffs can only become effective seven days after the interview date, or 15 days later in the case of management personnel.

If the layoff involves more than one employee, the employer must inform employee representatives in advance and send written notification to the DIRECCTE of the layoffs within eight days of sending termination letters to the employees affected.

**Collective layoffs must adhere to specific rules if they involve 10 employees or more over a 30-day period.** In such cases, the employer must inform employee representatives and the local DIRECCTE in advance.

**A job preservation plan (*plan de sauvegarde de l'emploi* – PSE)** must be drawn up when a business with 50 employees or more decides to dismiss 10 or more employees in a given 30-day period. This plan must explain all action taken to avoid job losses, such as reorganizing work, job-sharing, redeployment of employees inside and outside the company, etc. The plan must also explain the financial terms of the severance package.

The content of a job preservation plan may be defined either by:

- Signing a **majority backed collective agreement** with employee representatives. The Regional Directorate for Enterprise, Competition, Consumption and Employment (DIRECCTE) then has 15 days in which to approve the agreement after verifying that it meets the majority requirement, complies with procedures, is not contrary to statutory provisions and contains redeployment measures.

- Or preparing a **unilateral document** to be ratified by the DIRECCTE within 21 days. Ratification differs from the approval procedure in that the plan's content is examined with consideration of the means available to the employer. If no reply is received, the plan is deemed to be ratified.

### Works council consultation time limits

The employer must consult the works council about the planned restructuring and the number of employees to be dismissed. The work council may issue an opinion within the following time limits:

- Two months when fewer than 100 employees are affected.
- Three months when between 100 and 250 employees are affected.
- Four months when 250 or more employees are affected.

### Jurisdiction and time limits

Any disputes relating to either of the two procedures are heard by the administrative law courts, which must issue a ruling within three months.

## IN DETAIL

### JOB SECURITY AGREEMENTS; EMPLOYMENT PROTECTION AND DEVELOPMENT AGREEMENTS

The Employment Act of June 14, 2013 offers alternative solutions to layoffs on economic grounds, through job security agreements. In a particularly difficult economic context, an employer may temporarily adjust employee working hours and pay for a five-year period:

- either through a majority backed company-wide agreement;
- or by a unilateral plan ratified by the local administrative authority (DIRECCTE).

Irrespective of the number of employees refusing the new working conditions to remain employed, the rules of individual layoffs on economic grounds apply to each one of them (consequently, the employer is not required to justify a job preservation plan for more than 10 layoffs over a given 30-day period).

The Labor Act of August 8, 2016 created employment protection and development agreements enabling companies to adjust their organization in response to fluctuations in business, even in the absence of cyclical economic difficulties.

### Severance pay

Severance pay for layoffs on economic grounds is at least one-fifth of the employee's monthly pay (including bonuses) for each year of service after one year, increased by two-fifteenths of the employee's monthly pay for each additional year beyond ten years.

For example, an employee with 10 years of service and a gross monthly salary of €2,500 will be entitled to €5,000 or two months' pay. However, collective agreements in some cases provide for higher severance pay than this statutory minimum.

Severance pay is treated favorably by the tax and social security system, receiving partial exemptions from social security contributions and income tax.

Voluntary departures arising from job cutbacks, job changes, restructuring, or refusals to accept substantial changes to employment contracts are treated as layoffs.

### LAYOFFS ON PERSONAL GROUNDS

Personal dismissal procedures can be initiated for misconduct on the part of the employee or for actions that fall short of misconduct but nevertheless significantly harm the company's interests. A warning is often issued before initiating the dismissal procedure. The employee must be given an opportunity to provide explanations at a preliminary interview before the dismissal becomes effective. The employer must also comply with the notice period to which the employee is entitled by law or the relevant collective agreement. In principle, the notice period is two months for employees with more than two years of service.

Employees dismissed on personal grounds are now entitled to severance pay equal to that paid for layoffs on economic grounds. Employees are not entitled to severance pay in cases of serious misconduct.



## IN DETAIL

### SEVERANCE PAY FOLLOWING MEDIATION

Employee years of service	Severance pay
Less than 1 year	2 months' salary
1 year	3 months' salary
2 years	4 months' salary
3 years	5 months' salary
4 years	6 months' salary
5 years	7 months' salary
6 years	8 months' salary
7 years	9 months' salary
8-11 years	10 months' salary
12-14 years	12 months' salary
15-18 years	14 months' salary
19-22 years	16 months' salary
23-25 years	18 months' salary
26-29 years	20 months' salary
More than 30 years	24 months' salary

## I.4 - RETIREMENT

In principle, employees cannot be forced by their employer to retire before they are 70. The employer can however propose retirement to an employee once they reach an age of between 65 and 67, depending on their date of birth.

Employees born before July 1, 1951 must be at least 60 before they can retire; the exact age is rising gradually for employees by around four months every year, starting on July 1, 2011, and is 62 for people born after 1955. Early retirement is, however, possible for people who entered employment at an early age or who are permanently incapacitated. Retirement pension benefits are paid by specific benefit offices.

## IN DETAIL

### EMPLOYEE REPRESENTATION

The employee representation system varies according to the size of the company and concerns three separate institutions:

- In companies with at least 11 employees, employee representatives are elected by the employees to present individual and collective pay claims and to ensure compliance with employment laws.
- A works council (*comité d'entreprise* – CE) must be set up when a company has at least 50 employees. The council is elected for a four-year period by the employees to represent their interests when decisions are made about economic changes (such as company development and modified work organization) as well as employment and cultural issues. Works councils are chaired by the employer, who may be assisted by two personnel.
- The works council expresses its opinion within the timeframe previously agreed upon with the employer (or one month by default) unless a separate timeframe is provided for by law.
- Establishments with at least 50 employees must also set up a Joint Safety Committee (*Comité d'hygiène, de sécurité et des conditions de travail* – CHSCT) to implement training and other initiatives to prevent occupational risks and improve working conditions. If the company has fewer than 300 employees, the employer may decide, after consultation with employee representatives, to opt for a single employee representation delegation combining employee, works council and safety committee representatives in the same elected body. In companies with more than 300 employees, a single body can also be introduced after securing a majority-backed agreement.

### COMPANY-WIDE AGREEMENTS

Only union representatives have the power to negotiate and enter into collective agreements. Where there are no union representatives, an industry-wide agreement may allow the employer to negotiate with elected employee representatives, either those making up the works council or those chosen as delegates.

Failing this, in which event the situation must be confirmed in a written report, the employer may be authorized to negotiate with an employee designated for this purpose. The result of these negotiations must then be submitted to employees for approval by a majority of votes cast.

In order to ensure improved employee representation in companies and better dialogue between employers and employees, a reform initiated by the government on union representation in companies has been passed:

- Unions now have to obtain at least 10% of the votes cast in the first round of the professional elections to be represented. When a union does not have representation in a company or establishment, it can designate a representative within the company or establishment, primarily with a view to achieving representation at the next professional elections.
- Collective company-wide agreements have only been valid if they are signed by one or more unions with at least 30% of votes and in the absence of union opposition accounting for over 50% of votes.

As of January 1, 2017, agreements on working hours must be signed by trade unions garnering at least 50% of votes (in other fields, this threshold will not apply until September 2019).

## II. PROFIT-SHARING AND EMPLOYEE SAVINGS PLANS

In addition to their wages and salaries, employees and company directors may be offered attractive employee profit-sharing schemes and savings plans.

The range of schemes available enables companies to set up pay and benefit systems tailored to their specific needs, including supplementary retirement and family benefits, stock options, corporate and inter-company employee savings plans, etc.

**Employee profit-sharing** is mandatory in companies with more than 50 employees and in this case is referred to as *participation*, as opposed to **voluntary profit-sharing** which is referred to as *intéressement*.

- **Participation** involves allocating employees a fraction of company profits in line with clearly defined rules. Procedures for implementing the scheme are established by an agreement between employer and employee representatives. Bonuses earned by an employee under a profit-sharing scheme no

longer have to be frozen for five years; employees can request immediate payment of all or part of the corresponding sums. Tax and social security relief apply to sums which have been frozen; sums paid out immediately are only eligible for social security contributions relief.

- **Intéressement** allows employees to benefit financially from the results or performance of their company (or companies belonging to the group of employers for which the employees work). Immediately available (with no period during which sums are frozen), the sums are calculated in accordance with the agreement which established the measure.

These schemes are collective and individual arrangements are not permitted. Companies that offer an employee savings plan must present employees with a booklet setting out the provisions of the plan when they sign their employment contract. Provisions can also be made for employee savings plans (PERCO promoting retirement saving, or PEE for constituting a securities portfolio).

FOR YOUR BUSINESS		
	Social security contributions	Tax
Mandatory profit sharing ( <i>participation</i> )	<ul style="list-style-type: none"> <li>• Exempt from social security contributions.</li> <li>• Fixed 20% social security contribution (16% if invested in SMEs).</li> </ul>	<ul style="list-style-type: none"> <li>• Exempt from deductions to finance apprenticeships, training and housing.</li> <li>• Sums allocated to the special participation reserve fund deducted from taxable profits.</li> </ul>
Voluntary profit sharing ( <i>intéressement</i> )	<ul style="list-style-type: none"> <li>• Exempt from social security contributions.</li> <li>• Fixed 20% social security contribution.</li> </ul>	<ul style="list-style-type: none"> <li>• Sums allocated deducted from taxable income.</li> <li>• Exempt from deductions to finance apprenticeships, training and housing.</li> </ul>
FOR YOUR EMPLOYEES		
	Social security contributions	Tax
Mandatory profit sharing ( <i>participation</i> )	<ul style="list-style-type: none"> <li>• Exempt from social security contributions.</li> <li>• Subject to CSG and CRDS deductions.</li> <li>• Additional social security deductions (6.80%).</li> </ul>	<ul style="list-style-type: none"> <li>• Not taxable (except interest on frozen accounts received annually and not reinvested).</li> </ul>
Voluntary profit sharing ( <i>intéressement</i> )	<ul style="list-style-type: none"> <li>• Exempt from social security contributions.</li> <li>• Subject to CSG and CRDS deductions.</li> </ul>	<ul style="list-style-type: none"> <li>• Not taxable provided profit-sharing is within the framework of an employee savings plan and no more than half of the annual social security limit.</li> </ul>



### III. ORGANIZING WORKING HOURS: AGREEMENT NEGOTIATED WITHIN THE COMPANY

Companies in France have a good deal of flexibility in how they organize their working hours so as to make best use of their facilities and increase the productivity of their company. Working hours can be negotiated within their company.

#### III.1 - THE 35-HOUR WEEK: GREATER FLEXIBILITY

**Statutory working hours:** 35 hours per week.

These hours serve as the basic reference, beyond which overtime is calculated.

The 35-hour week does not apply to executives, to whom regulations on night work, daily and weekly rest periods, and statutory holiday entitlement do not apply either.

**Overtime hours (*heures supplémentaires*):**

A sector-specific collective agreement or company-wide agreement sets the pay increase, which may not be less than 10%, failing which employees receive a 25% pay increase for each of the first eight hours and then 50% thereafter.

The payment of overtime may also be substituted by time off in lieu if this arrangement is provided for in a collective agreement.

**Overtime quota:**

The overtime quota available to an employer is negotiated through a company-wide agreement (by default this is 220 hours per year per employee), which increases annual working hours to 1,827, the equivalent of over 39 hours per week for 47 weeks.

The collective company-wide agreement may also state how overtime can be performed beyond this overtime limit. In this case, in addition to overtime pay, the works council's opinion must also be sought and mandatory time off in lieu planned.

**Maximum working hours:**

10 hours per day (a contractual exemption up to 12 hours can be made) and 48 hours in any one week, with a maximum average of 44 hours per week over a 12-week period.

**Flat-rate agreements (hours/days worked):**

Working hours are counted on a flat-rate basis (e.g. number of days per year). Provision can be made for flat-rate agreements covering hours or days worked for independent skilled and non-skilled employees who are free to organize their own work time. In such cases, a flat-rate agreement must be signed with the employee.

#### WORKING HOURS IN FRANCE

	Legal provision	Standard overtime quota	Beyond standard overtime quota	
Companies concerned	All companies	All companies	Small companies <sup>1</sup>	Large companies <sup>1</sup>
Working hours	35 hours per week or 1,607 hours per year	Set by collective agreement (company- or industry-specific) or Statutory annual limit of 220 overtime hours i.e. 39 hours per week over full year = 1,827 hours/year	Set by a collective agreement (company- or industry-specific) without exceeding the maximum working hours limit (EU regulations).	
Administrative formalities	None	Simply inform the works council	The works council must be consulted	
Overtime pay rates <sup>3</sup>	Not applicable	- Rate provided for in collective agreement for the business or sector (10% minimum) or 25% from the 36th to the 43rd hour or 50% beyond that	Same as standard overtime quota	
Mandatory time off in lieu	Not applicable	None. Time off in lieu is optional within the standard overtime quota and must be included in a collective agreement.	50% beyond quota (= 1/2 hour per overtime hour beyond quota)	100% beyond quota (= 1 hour per overtime hour beyond quota)

(1) Small companies have up to 20 employees and large companies have at least 21 employees.

(2) If provided for in the collective agreement, time off in lieu can partially or entirely replace overtime pay.

Employers must respect the European Union directives governing daily 11-hour rest periods, weekly 24-hour rest periods in addition to the daily rest periods, paid leave and unworked days in the company. They must also conduct interviews to discuss workloads and work-life balance.

	Collective agreement	Employee consent
Flat-rate agreement in hours worked (per week or per month)	Not required	•
Annual flat-rate pay agreement in hours or days worked (max. 218 days) <sup>1</sup>	• <sup>2</sup>	•

(1) Employees may have their time off in lieu "bought back" (excluding paid leave) in return for a salary increase: the number of working days may then reach 235 days per year. The salary increase paid to the employee is set by an amendment to the initial flat-rate agreement and must be at least equal to a 10% increase.

(2) The collective agreement must ensure that maximum working hours as well as daily and weekly rest time will be respected, in accordance with European Union directives.

### III.2 - STAGGERING PAID LEAVE

Employees in France are entitled to five weeks of paid leave. The employer can refuse to let an employee take paid leave if the workload is too great. However, employers must let employees take at least four weeks of paid leave between May 1 and October 31. In addition to paid vacation, there are on average 10 statutory holidays and personal leave days (births, marriages, bereavements) where applicable, in addition to paid leave.

### III.3 - SUNDAY IS A DAY OFF BUT WITH RELAXED REGULATIONS

Employees must be given a weekly day of rest lasting at least 24 hours on Sunday. However, there are exceptions to the Sunday rule:

- Permanent exemptions are granted when warranted by the nature of certain businesses (e.g. manufacturing firms using or producing perishable goods, factories operating around the clock, maintenance firms, etc.), in communes categorized as tourist or spa attractions.
- Permanent exemptions in specific locally defined tourist or commercial areas, subject to a company-wide agreement.
- The authorities may also grant temporary exemptions, for example when manufacturing firms are operating with extra shifts. Exemptions may also be granted within a month by the local *Préfecture* to avoid a situation detrimental either to the public or business interests.
- Exemptions may also be granted in urban areas of over one million inhabitants.

These exemptions, granted on an individual or collective basis, are granted by the State Prefect in the *département* for a five-year period. The local mayor may also allow non-food retail stores to open 12 times a year on Sundays.

Employees who work on Sunday receive extra pay and are still entitled to a weekly day of rest.

### III.4 - ORGANIZING WORK TIME OVER THE YEAR BY AVERAGING PAY

Companies have several ways of adjusting working hours to suit their business requirements without incurring extra payroll costs. Organizational arrangements of working time are integrated into a single framework: a collective agreement may organize working hours over a period of longer than a week to up to a year.

If the company experiences uneven fluctuations in business which can be forecast, working hours can be increased or cut in certain periods without incurring additional costs or exceeding statutory limits.

#### Shift work does not entail additional payroll costs

Shift working, over a period of several weeks, can be introduced by the employer. The exemption from the Sunday rule may be automatic or may require local authorization, depending on the activities concerned.

#### Working time arrangements are organized by company-wide agreements

Provision is made in the collective agreement for the conditions and notice required of changes to working hours or times (by default, seven days), the limits for calculating overtime, how to calculate an average salary and the threshold for triggering overtime, etc. In the absence of any collective agreement regarding working time arrangements, the employer can organize working hours in the form of cycles, each up to four weeks long.

#### Work may also be organized with rotating shifts or teams

In all of these cases, the company is not required to pay increased wages or overtime pay, and it is not required to provide time off in lieu, as long as the statutory working hours are not exceeded on average over the cycle.

WORKING ARRANGEMENTS		
	Conventional shift work	Alternating shifts
Principle	Fixed round-the-clock shifts (1)	Shifts longer than normal working hours
Examples	Shift A: 6am - 2pm Shift B: 2pm - 10pm Shift C: 10pm - 6am  (Three eight-hour shifts)	Shift A: 6-10am/2-6pm Shift B: 10am-2pm/6pm-10pm Or: Shift A: 6am-2pm Shift B: 9am-5pm Shift C: 12pm- 8pm
Average work week	35 hours	35 hours
	Rotating shifts	Production cycle
Average work week	Working days and days off divided among employees (1)	Working hours are scheduled over the cycle
Examples	Shift A: Monday to Friday Shift B: Tuesday to Saturday	Weeks 1 and 2: 44 hours Week 3: 38 hours Weeks 4 and 6: 28 hours (average over cycle: 35 hours)
Average work week	35 hours	Average of 35 hours over cycle

(1) With special arrangements for working on Sunday.

## IV. EXTENSIVE HIGH-QUALITY SOCIAL SECURITY COVER

The quality and scope of social security cover in France ensure that both employers and employees can benefit from a stable professional and family environment.

### IV.1. A GENEROUS SOCIAL SECURITY SYSTEM

France's health and social security system pays virtually all healthcare costs incurred by the employees and their families. The system offers four types of benefits:

#### Health insurance (healthcare, maternity, disability and death benefits)

Employees are partially reimbursed for medical care and hospital expenses, which are covered by social security (benefits in kind). The employee's family and any legal dependents also receive medical cover if they reside in France and are not covered by another health insurance plan.

Social security provides female employees paid **maternity leave** of up to 16 weeks (six weeks before the birth and 10 weeks after) while fathers receive 11 days of paid **paternity leave** in the first four weeks after the birth.

Employees receive supplementary reimbursements for illnesses and maternity expenses through workplace mutual insurance systems.

#### Old-age pensions

Retirement schemes in France comprise a basic state social security pension and a supplementary plan managed jointly by employee and employer representative organizations. These two systems are mandatory and can be further supplemented by employee savings plans.

#### Family benefits

Family benefits are paid to people with dependent children living in France (e.g. family benefit, birth or adoption allowance, back-to-school allowance, etc.).

#### Accidents at work

Another feature of the social security system are compulsory unemployment insurance schemes. Employers are free to add other insurance coverage to suit their employees.

The health and retirement benefits for employees compare favorably with those offered in many other countries.

## REIMBURSEMENT RATES COVERING MEDICAL AND MATERNITY EXPENSES FOR EMPLOYEES UNDER THE FRENCH SOCIAL SECURITY SYSTEM

	Reimbursement rate <sup>1</sup>
<b>Medical fees</b>	
Practitioner consultation fees (doctors, dentists, midwives)	70%
Other consultation fees: nurses, physical therapists, speech therapists, ophthalmologists, podiatrists	60%
<b>Long-term illnesses, including pharmaceutical products, treatments and hospitalization</b>	100%
<b>Laboratory examinations and tests</b>	from 60% to 100 %
<b>Medication</b>	from 15% to 100%
<b>Other medical expenses</b>	
Optical	60%
Bandages, supplies, small devices	60%
Orthopedics	60%
<b>Hospitalization (to a hospital or certified private clinic)</b>	
Hospitalization costs	80%
Transfer from one hospital facility to another	100%
<b>Maternity</b>	
Pre- and post-natal exams, examinations and medical care received in the last four months of pregnancy and costs of the birth	100%

(1) Reimbursement rates may differ in the Alsace region and the Moselle département.

### IV.2 - SOCIAL SECURITY CONTRIBUTIONS PROVIDE INSURANCE AGAINST THE COSTS OF SICKNESS, RETIREMENT, TRAINING AND UNEMPLOYMENT

Employer social security contributions are substantially lower on low wages:

- Since January 1, 2015 no employer social security contributions are payable to URSSAF on behalf of employees earning the statutory national minimum wage; the remaining (non-URSSAF) employer contributions due amount to around 11% to 13% depending on the status of the employee.
- An across-the-board reduction in social security contributions means companies enjoy a large reduction in social security contributions on salaries up to 1.6 times the statutory national minimum wage.
- All companies are eligible to receive the competitiveness and employment tax credit (*crédit d'impôt compétitivité emploi – CICE*), which applies at a rate of 7% of payroll, excluding salaries higher than 2.5 times the statutory national minimum wage (€3,700.67 gross per month). The rate rises to 7.5% in the overseas territories of Guadeloupe, French Guiana, Réunion, Martinique and Mayotte.

On higher salaries, social security contributions amount to 42% on average of gross pay, while the employees' share, regardless of their salary level, amounts to nearly 21%.

Employers can find an online simulator to estimate social security contributions at the following address: <https://embauche.beta.gouv.fr>

To a large extent, these contributions relieve employers of their responsibilities to employees. For example, social security partially covers employee pay when they are sick or on maternity or accident leave.

Similarly, by making monthly contributions to the company's **career training** fund (*fonds de formation professionnelle*), all or part of the employee career-training costs borne by the employer are covered.

## DS avocats

# CHANGES INTRODUCED BY THE LABOR ACT OF AUGUST 8, 2016

**S**ecurity and flexibility are the aims of a reform process that began in France in 2013 with the 2013 Employment Act, the Growth, Economic Activity and Equal Economic Opportunity Act ('Macron Law') and Social Dialogue and Employment Act ('Rebsamen Law') in 2015, and the Labor, Social Dialogue Modernization and Career Security Act of August 8, 2016 ('El Khomri Law').

### WORKING TIME

A number of new initiatives now allow employers to avoid paying overtime rates for hours worked in excess of statutory working hours (35 hours a week) by entering into flat-rate pay agreements based on the number of hours or days worked, or by spreading working hours over a period longer than a week so as to smooth employee pay.

The Labor Act has given new life to some of these initiatives, which had hitherto been contested in the courts, and in particular flat daily rates, restricted to employees with a degree of autonomy. This method of counting working time in days over the course of a year has now been made legally secure, subject to the employer drawing up a document tracking working time, ensuring that the employee's workload is reasonable and arranging for an annual interview.

Furthermore, the Labor Act now recognizes the **primacy of company-wide agreements over industry-wide agreements in governing working time**. For example, the premium payable for overtime hours can now be negotiated within the company, subject to a statutory minimum of 10%. This flexibility for negotiation within the company has now made it easier to reconcile economic and workforce performances through rules that can be adapted to reflect the reality of the company's business operations as closely as possible. Furthermore, in the absence of a collective agreement, the employer may implement a working pattern over nine weeks (previously four) for companies with fewer than 50 employees, and over four weeks for other companies.

### PROTECTING AND DEVELOPING EMPLOYMENT

These goals of security and flexibility also tend to help **protect jobs and develop employment opportunities** through the introduction of measures allowing companies to respond to issues arising from fluctuations in business:

- Employment protection or development agreements: Even when not faced with economic difficulties, companies now have the option of entering into agreements to adjust employees' working conditions (including working time and pay) in line with fluctuations in business. Such agreements are binding upon employees, whose refusal to accept a temporary amendment to their employment contract may constitute grounds for dismissal.
- Economic difficulties constituting grounds for layoffs are clarified with effect from December 1, 2016: A decline in orders or sales, operating losses, and a deterioration in the company's cash position or gross operating profit are expressly referred to in the Act as characterizing economic difficulties.
- Pro-employment measures for microbusinesses and SMEs: Microbusinesses and SMEs may now more easily make use of flexibility measures that can be arrived at through company negotiation (e.g. adjustments to working hours). The Act provides for greater flexibility for negotiation in companies with fewer than 50 employees. Alternatively, such companies may adopt standard agreements negotiated at industry level. The Act also provides for the creation of an information service for companies with fewer than 300 employees, which will be responsible for answering employers' questions regarding the application of provisions contained in the Labor Code and all related collective agreements. In some cases, the answer provided by the authorities may be used as evidence of the employer's good faith in the event of any dispute.
- Economic layoffs prior to a takeover are expressly authorized where a company or group with more than 1,000 employees initiates a job preservation plan (*plan de sauvegarde de l'emploi* – PSE) including the takeover of an economic entity with the aim of preventing the closure of an establishment. In such cases, the seller, who is required to seek a buyer, may lay off any employees not taken on prior to the transfer. In theory, such layoffs prior to a transfer are prohibited by French regulations under which employees of the transferred entity are automatically transferred to the buyer. In the case in point, the buyer will no longer have to bear the cost of any required layoffs subsequent to the takeover.

**Gwladys Beauchet,**  
PARTNER, LABOR AND ENVIRONMENTAL LAW

The image features a solid blue background with a large, faint, light-blue number '5' centered in the upper half. A thick, dark-blue curved line, resembling a stylized 'C' or a partial circle, is positioned in the lower half, overlapping the bottom of the '5'. The word 'CHAPTER' is written in white, uppercase, sans-serif font, centered horizontally and positioned between the number '5' and the curved line.

CHAPTER



# BUSINESS TAXES IN FRANCE

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# BUSINESS TAXES IN FRANCE

The rules underpinning the French tax system are designed to promote business investment, regional development and international expansion. France's efforts to develop a fair tax system are also evident in its policies designed for corporate groups. France has signed bilateral tax treaties with most of the countries it trades with (more than 100 countries) and thus provides foreign investors with outstanding protection against double taxation.

A single gateway operated by the Public Finance Directorate (*Direction générale des finances publiques* – DGFIP) of the French government handles tax queries from foreign investors. This information service, which can be contacted by email at [tax4business@dgfip.finances.gouv.fr](mailto:tax4business@dgfip.finances.gouv.fr), enables foreign investors to invest in France in a clear and secure legal framework.

## IN DETAIL

### THE TAX4BUSINESSFRANCE SERVICE:

- Provides answers to investors' questions about how taxation applies to them.
- Enables them to seek advance rulings (*rescrits*) from the tax authorities.
- Offers multilingual tax-related information directly tailored to their needs.
- Provides access to further explanations in English.

the French market it runs no risk of being considered a permanent establishment in France. But once the employee signs contracts in France on behalf of the foreign company, the company is deemed to have a permanent establishment in France, and is subject to tax on the profit earned by its business in France.

An "advance ruling" procedure (*rescrit*) enables any company already set up in France, or planning to do so, to ask the tax authorities to rule whether or not it has a permanent establishment in France; the authorities will then reply within three months.

## I. CORPORATE TAX IN LINE WITH EU STANDARDS

### I.1 - TAXATION BASED ON REALIZED EARNINGS

Any foreign entity doing business for profit in France is liable to pay French tax on its earnings in France (principle of territoriality). This rule applies regardless of the types of entities:

- Subsidiaries
- Branches
- Permanent establishments

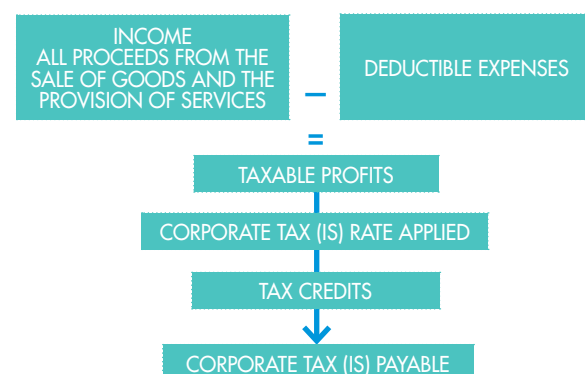
If a branch or a permanent establishment is not a separate legal entity, its earnings from activities in France are reconstituted using the financial statements of the foreign company.

Each individual tax treaty defines the notion of a permanent establishment as a fixed place of business or a dependent agent (as defined in Article 5 of the OECD Model Tax Convention). One of the most common examples of this in practice is that when a foreign company sends one of its employees to France to prospect

### I.2 - CALCULATING TAXABLE EARNINGS

Earnings subject to corporate tax (*impôt sur les sociétés* – IS) are calculated by deducting eligible expenses from income. Income comprises all of the proceeds from the sale of goods and the provision of services.

#### CALCULATING TAXABLE EARNINGS



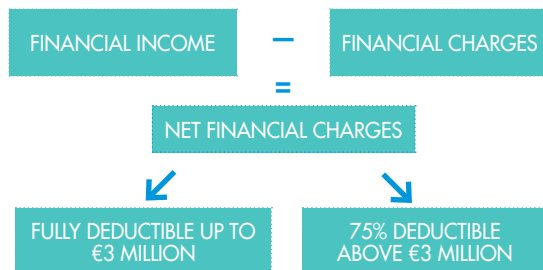


Deductible expenses include:

- Depreciation and amortization of fixed assets (excluding goodwill and land)
- Provisions
- Rent for buildings and equipment
- Salaries
- Social security contributions
- Taxes and certain duties (unless otherwise specified)
- Goods purchased
- Energy consumption
- Advertising
- Financial expenses, etc.

All types of expenditure borne by a business are deductible if they are spent on items the company needs to operate, and providing they are legitimate and justified. However, special rules apply to certain expenses:

- Net financial charges.



- Other rules apply to financial transactions between companies in the same group, specifically with regard to the risks of maximizing intra-subsidiary interest rates or optimizing due to undercapitalizing subsidiaries with the highest debt.
- When taking out a patent, a patentable invention, or a licensed or sub-licensed manufacturing process, whereby any royalties paid qualify for a deduction, provided the license is actually being used and the royalty paid is not excessive.
- So-called "sumptuary" expenses and private passenger vehicles for which the deductible depreciation allowance and lease payments are capped at either €18,300 or €9,900 for the least environmentally friendly cars. The thresholds include all taxes (including VAT).
- As a general rule, all types of fees between companies in the same group are deductible if the transactions are invoiced in line with market prices and actually take place. Amounts invoiced within an international group are subject to international laws on transfer pricing.

### I.3 - GENEROUS DEPRECIATION RULES

Fixed assets are depreciated on a straight-line basis over their expected operating life. In the case of certain production assets bought new with a minimum three-year depreciation period, acceleration multiples ranging from 1.25 to 2.25 may be applied to the straight-line depreciation rates, depending on the normal operating life of the assets concerned (declining balance).

Equipment and tools used for scientific and technical research can be depreciated on an accelerated declining balance basis. The acceleration multiples in this case range from 1.5 to 2.5.

#### DEPRECIATION RULES

Operating life (years)	Straight-line depreciation rate (%)	Assets acquired or produced since January 1, 2010	
		Applicable coefficient	Depreciation rate (col.2 x col.3)
3	33.33	1.25	41.67
4	25	1.25	31.25
5	20	1.75	35
6	16.67	2.25	29.17
8	12.5	2.25	28.13
10	10	2.25	22.5
12	8.33	2.25	18.75
15	6.67	2.25	15
20	5	2.25	11.25

From April 15, 2015 to April 15, 2017, companies making manufacturing investments may also deduct a one-off supplementary depreciation allowance equal to 40% of the cost price of the investment.

#### GENEROUS DEPRECIATION RULES

Year	Calculation details	One-off allowance
2015	$(600,000 \times 40\%) \times 20\% \times \frac{6}{12}$	24,000
2016	$(600,000 \times 40\%) \times 20\%$	48,000
2017	$(600,000 \times 40\%) \times 20\%$	48,000
2018	$(600,000 \times 40\%) \times 20\%$	48,000
2019	$(600,000 \times 40\%) \times 20\%$	48,000
2020	$(600,000 \times 40\%) \times 20\% \times \frac{6}{12}$	24,000
	<b>TOTAL</b>	<b>240,000</b>

#### I.4. ALLOWABLE PROVISIONS FOR DEPRECIATION

These are allowed if they can be justified and if they relate to clearly identified claims, inventories, securities or tangible and intangible fixed assets. Allowable provisions include provisions for contingencies, work in progress, price increases, annual leave, etc.

#### I.5 -CORPORATE TAX RATES

<b>Standard rate of 33.33%</b>	2017: Rate lowered to 28% for all SMEs with earnings up to €75,000. 2018: 28% on the first €500,000 of all businesses. 2019: 28% for all businesses with revenues up to €1 billion (threshold applies at group level, where appropriate) 2020: 28% for all businesses
<b>Scheduled to fall to 28% between January 1, 2017 and 2020</b>	
<b>Additional social contribution on earnings of 3.3% (i.e. +1.1 % points)</b>	If turnover > €7,630,000
<b>Reduced rate (15%)</b>	SMEs up to €38,120 of earnings and with at least 75% of their shares owned by individuals or companies satisfying the same criteria. Standard rate on the remainder.  Proceeds from intellectual property: royalties and capital gains on the transfer of patents, if already held for at least two years.
<b>Exemptions</b>	Capital gains on the sale of shareholdings held for at least two years, except for the 12% representing expenses.  95% of the dividends redistributed by French or foreign-owned subsidiaries in which the company has a stake of at least 5% (and has owned the stake for at least two years). Consolidation of 5% of the dividends received into taxable earnings.

#### I.6 - CARRYING LOSSES FORWARD (OR BACK)

Losses recorded in a given year can be carried forward indefinitely against future earnings and, to a lesser degree, can also be carried back against earnings made in the previous year.

#### I.7 - GROUPS OF COMPANIES: FLEXIBLE TAX CONSOLIDATION RULES UNDER THE FRENCH TAX SYSTEM

Under the tax consolidation scheme, companies in the same group may opt for overall taxation. This enables groups of companies to offset income and losses recorded in France from their consolidated businesses and to eliminate intercompany transactions. Tax credits that apply to one company in the group, for example the research tax credit, can be transferred to the consolidating company that is subject to corporate tax, and thereby be deducted from tax to be paid by the group.

French subsidiaries owned through a company located within the EU, Norway or Iceland that is not subject to corporate tax in France may be considered to be part of a consolidated group (horizontal consolidation between sister companies).

Companies in corporate groups may choose to apply the optional VAT payment consolidation scheme. Only the consolidating company need pay the VAT balance on behalf of all the companies in the group. This balance will be calculated as the difference between taxes owed and any tax credits due on the

#### GENEROUS RULES FOR OFFSETTING LOSSES

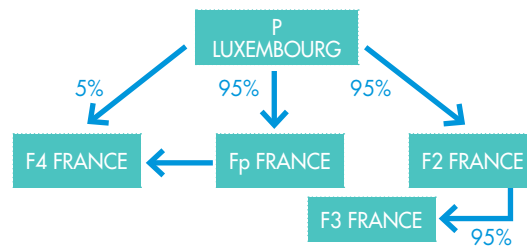
Offsetting losses	Tax years	Conditions	Working examples
Carry forward	All subsequent tax years	<ul style="list-style-type: none"> <li>- Losses can be carried forward indefinitely</li> <li>- Annual losses of up to €1,000,000 + 50% of subsequent profits exceeding this figure</li> </ul>	In 2015: A company records a loss of €900,000 In 2016: It makes a profit of €1,500,000 > Loss which can be deducted: €900,000 > Taxable earnings = €600,000
			In 2015: A company records a loss of €2,000,000 In 2016: It makes a profit of €1,500,000 > Loss which can be deducted: €1,250,000 (i.e. €1,000,000 + 50% of €500,000) > Taxable earnings = €250,000 (i.e. €1,500,000 - €1,250,000) > Remaining portion of the loss recorded in 2015 can be carried forward to subsequent tax years
Carry back	Previous tax year only	<ul style="list-style-type: none"> <li>- Only against taxable earnings in the previous year</li> <li>- Only up to €1,000,000</li> <li>- Reimbursed after five years as a tax receivable if not already deducted from subsequent corporate tax bills</li> </ul>	In 2015: A company records taxable earnings of €1,500,000 In 2016: Taxable loss of €3,000,000 Offsetting losses cannot exceed €1,000,000 > The remaining €2,000,000 (i.e. €3,000,000 - €1,000,000) can be carried forward

tax returns filed by the group's members. The parent company must directly or indirectly hold a stake of at least 50% in the subsidiaries' capital or voting rights. As such, the scope of the

VAT payment consolidation will not in theory match the scope of tax consolidation in the corporate tax system. If this option is pursued, it applies as of January 1, 2015.

PARENT COMPANIES AND SUBSIDIARIES SCHEME		TAX CONSOLIDATION SCHEME	
Subsidiary nationality	Tax arrangements in France	Subsidiary nationality	Tax arrangements in France
French	<b>Conditions :</b> <ul style="list-style-type: none"> <li>The parent company must also have fully owned the shares for at least two years.</li> </ul>	French	<ul style="list-style-type: none"> <li>The taxable profits and losses of all companies are consolidated.</li> <li>One single corporate tax payment made by the parent company established in France.</li> <li>Profits and losses offset among subsidiaries.</li> <li>Intercompany transactions eliminated (receivables, grants, fixed asset transfers).</li> </ul> <b>Scheme:</b> <ul style="list-style-type: none"> <li>Dividends are exempt, subject to the consolidation of a share of costs and expenses amounting to 1% of the tax base (since January 1, 2016), leading to an effective tax rate of 0.33% (i.e. 1% x 33.33%)</li> </ul>
European Union	<b>Tax arrangements:</b> <ul style="list-style-type: none"> <li>Exemption on dividends and other income accruing to partners of shareholders (advances, loans, advance payments).</li> <li>Consolidation into taxable earnings of 5% of dividends received, leading to an effective tax rate of 1.66% (i.e. 5% x 33.33%).</li> </ul>	French, owned by an intermediary of a company based in the European Union (+ Norway and Iceland)	<b>Conditions:</b> <ul style="list-style-type: none"> <li>Optional scheme for a five-year period</li> <li>Full ownership by the parent company of a 95% stake in its subsidiaries</li> <li>Direct or indirect ownership (assessed by the accumulated stakes held by the same chain of interests)</li> <li>The group is automatically ejected from the scheme if it no longer meets the prerequisite conditions.</li> </ul>
Non-EU countries that have signed a tax treaty with France containing an administrative assistance clause	<b>Excluded:</b> <ul style="list-style-type: none"> <li>Dividends paid out by subsidiaries based in non-cooperative states or territories.</li> <li>Dividends from subsidiaries with the same activity and which are exempt from corporate tax (IS) in the country in which they have their registered office.</li> <li>Property companies or companies with a specific core purpose.</li> </ul>		

### WORKING EXAMPLE: GEOGRAPHIC SCOPE FOR TAX CONSOLIDATION



- Company P fulfils the requirements to be a non-resident parent company
- Company Fp fulfils the requirements to be the parent company of the horizontal group
- Companies F2, F3 and F4 fulfil the requirements to be members of the group formed by Fp

### IN DETAIL

#### THE HOLDING COMPANY SCHEME

Holding companies established in France, and which have held a stake for two years or more in each of its French or foreign subsidiaries, are only taxed at a rate of 5% on their redistributed dividends.

This scheme presents considerable advantages because it results in a minimum effective tax rate of 1.67% (5% x 33.3%) on the dividends paid out by their subsidiaries.

Moreover, when securities that have been held for at least two years are transferred, tax is levied on 12% of the net gain, provided that the parent company holds at least 5% of the voting rights in the subsidiary. Holding companies are also eligible for the tax consolidation scheme.

## II. WAYS TO REPATRIATE EARNINGS

Earnings may be repatriated in three ways:

- Transfer or distribution of net profit from branches and subsidiaries.
- Interest on loans and advances granted by the foreign parent company.
- Royalties or management fees.

### II.1 - NO TAX OBSTACLES TO THE INVOICING OF INTEREST, ROYALTIES OR MANAGEMENT FEES

The amounts invoiced must be justified and in line with the prices for arm's-length transactions between independent companies. The French authorities may demand evidence that transfer prices are in line with actual market prices.

### II.2 - REDUCED RATES OF WITHHOLDING TAX AND EXEMPTIONS

#### Dividends paid out to EU residents

Dividends distributed to a European parent company are exempted from the withholding tax if its headquarters are located in the European Union and it holds a stake of at least 10% in its French distributing subsidiary.

Since January 1, 2012 the withholding tax rate has been 21% on dividends collected by an individual residing in an EU Member State, Iceland or Norway.

#### Dividends paid out to non-EU residents

Most of the tax treaties France has signed with major industrial nations provide for the application of a withholding tax on dividends, with a standard rate of 5% for companies (subject to a minimum stake in the subsidiary created in France) or 15% for individuals. The new tax treaties signed by France (with Japan and the United States) provide for no withholding tax to be applied when dividends are paid (subject to specific conditions of stake ownership).

If no tax treaty exists, the withholding tax is 30%.

#### Additional corporate tax contribution on dividends distributed by a company established in France

Dividends paid out by a company established in France are subject to an additional contribution of 3%. However, dividends paid out by an SME (as per the European Union definition) or by an entity not subject to corporate tax, dividends paid out as shares, and dividends paid out within consolidated groups (cf. section I.7) are all exempt.

Since January 1, 2017, this exemption has been extended to foreign shareholders as well as non-consolidated groups of companies. French-owned consolidated groups remain exempt throughout 2017.

#### Earnings from securities and royalties

For interest and royalties paid to foreign countries, tax treaties set out rates that vary from 0 to 15%.

## III. VALUE ADDED TAX AND CUSTOMS DUTY

### III.1 - VAT: A NEUTRAL TAX FOR COMPANIES

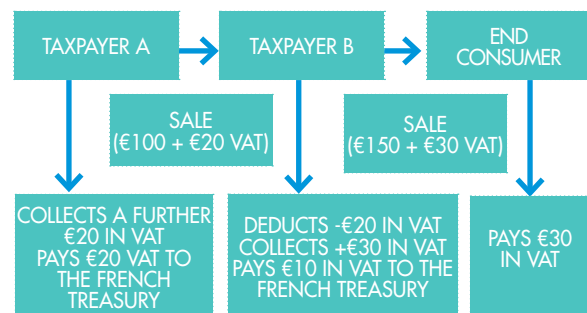
Value added tax (VAT) is a tax that end-consumers pay on the consumption of goods and services. When companies are formed, the French tax authorities assign them an EU VAT number.

Companies merely collect the VAT on their own sales and services and deduct the amount of VAT that they have paid on purchases of goods and services. This is reported in a monthly, quarterly or annual statement based on sales and the amount of VAT paid during the previous year. Depending on the size of the company, this declaration is sent to either the corporate tax office (*Service des impôts des entreprises* – SIE) or the large business tax office (*Direction des grandes entreprises* – DGE) before the deadline set by the French tax authorities.

If companies have paid more VAT than they have collected on sales and services, the VAT credit will be refunded to them on request.

#### How VAT works in France:

There are four VAT rates in France: 20%, 10%, 5.5% and 2.1%.



- Reverse charge of import VAT: A client company identified as such for VAT purposes in France is liable to pay VAT in France for all taxable transactions in France conducted with a supplier or service provider established abroad, which issues an invoice excluding VAT.
- An optional reverse charge procedure for import VAT was introduced on January 1, 2015, which involves declaring the imported amount and calculating the corresponding amount of VAT on a French VAT return. The VAT settled is deducted directly from the VAT return filed with the French tax authorities.

### III.2 - UNIFORM CUSTOMS REGULATIONS THROUGHOUT THE EU

#### Goods move freely within the European Union

Customs duty is only charged once when goods enter French territory. Goods entering France to be redispached to another EU Member State are exempt from customs duty and VAT (as VAT is paid in the country where the goods are delivered to end users).

VAT exemption is possible for purchases of goods and the transformation or improvement of such goods that are subject to a VAT suspension scheme or an EU customs transit procedure, where the goods are delivered within the EU (intra-Community supply) or subsequently exported when they exit the procedure. If the goods remain in France, VAT payment can be deferred to a later time.

Companies are not required to complete any administrative formalities for the movement of most types of goods between EU countries. They are only required to file a "declaration of trade in goods" (DEB) form for statistical purposes (subject to specific thresholds).

Computerized customs clearance accelerates formalities and

release of goods. Companies may opt for electronic transmission of DEB forms to the customs' data center (CISD) and online filing. Clearance is through the relevant customs department.

Companies providing services to businesses located in other EU Member States must file an EU VAT return with the French customs authorities if the company in the other Member State has already paid the VAT.

#### Clearance of non-European Union goods

Imports and exports of goods between EU Member States and other countries require a customs declaration, which must be filed using the Single Administrative Document (SAD). The main items on the SAD are the name of the company, the type of declaration (depending on the source of the merchandise), and the type, origin and value of the goods, net of tax.

Invoices and any documents required to claim preferential tariff treatment or for inspection of certain imports (agricultural products, etc.) must also be provided. The SAD information is used to calculate the duties and taxes due. It is also used for statistical purposes to count units of goods.

#### IN DETAIL

##### MEASURES TO SIMPLIFY CUSTOMS PROCEDURES

In an effort to simplify administrative and tax procedures, and in order to improve the competitiveness of businesses based in France, the following measures have been adopted:

- A simplified goods collection procedure that allows operators to continue their customs formalities.
- Paperless incentive measures have led to a fully digitized customs system, electronic payment and automatic reconciliation. These efforts are a vehicle for the authorities to simplify and facilitate customs formalities and make them more secure.
- The ICS (Import Control System) and ECS (Export Control System) have been developed to improve security for goods flows through the transmission of logistics and trade data.
- A national 'one-stop shop' has been set up that liaises with the other government authorities.
- Companies can make a single monthly VAT payment for imports, to be paid on the 25th of the month following the date of import.
- The VAT deposit on bonded imports when using deferred payment facilities has also been phased out.

**TAJ – LAW FIRM**  
Member of the Deloitte network

## THE UNION CUSTOMS CODE: A NEW SET OF RULES TO UNDERPIN THE COMPETITIVENESS OF COMPANIES ENGAGED IN INTERNATIONAL TRADE

**O**n May 1, 2016, the Community Customs Code was replaced by the Union Customs Code (UCC). The UCC introduces a number of positive changes to maintain or enhance the competitiveness of European Union companies engaged in international trade.

Among the most noteworthy changes are the new benefits now associated with Authorized Economic Operator (AEO) status. Under the new Code, the EU's centralized clearance procedure will be opened up to AEOs, meaning operators can make their customs declarations to a single customs office of their choice anywhere in the European Union, regardless of the location of their goods within the EU. This single, harmonized system will expedite customs clearance procedures from 2019-2020 onwards and thus reduce their cost.

AEOs will also be authorized by the customs authorities to determine for themselves the amount of import or export duties they owe, to check their own compliance with the applicable prohibitions and restrictions (self-assessment), and to prove that they have submitted their customs declarations simply by producing the relevant entries in their stock records, with no need to present goods concerned. Given the IT developments required to implement these changes, it is likely that AEOs will only be able to benefit from them in practice from late 2017 or early 2018. The comprehensive guarantees AEOs must provide to cover the customs debts they have incurred (customs and excise bond) have also been reduced by 30%.

The UCC does not neglect operators without AEO status, however. For instance, comprehensive guarantees to cover customs debts that may be incurred can now be reduced or even cancelled, depending on the number of AEO criteria the operator meets. The national centralized clearance procedure is also open to non-AEO operators, enabling them, at national level only, to separate the place in which goods are declared from the place to which they are physically imported.

The UCC provides for computerization of customs procedures for all operators. The procedures are due to be completely paper-free from January 1, 2021. In addition to the financial savings made on customs document storage, computerization will save time, enabling customs procedures involving various Member States to be completed much more quickly.

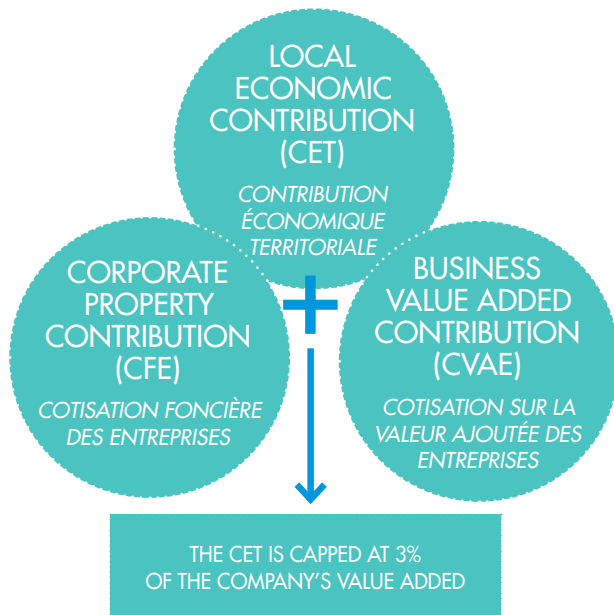
Computerization is already a reality in France, since the French government introduced the national one-stop shop for customs clearance (*Guichet unique de dédouanement national* – GUN). This platform simplifies administrative procedures for companies engaged in international trade by offering them a single point of contact and will also encompass all import and export documentation starting in 2018.

**Vanessa Irigoyen**  
LAWYER AND PARTNER



## IV. LOCAL TAXES PAID BY COMPANIES

### IV.1. LOCAL ECONOMIC CONTRIBUTION (CONTRIBUTION ÉCONOMIQUE TERRITORIALE – CET)



Tax is not levied on investments classified as productive, which include machines, tools, movable property and equipment. A network flat tax (*imposition forfaitaire sur les entreprises de réseaux – IFER*) has also been introduced that only pertains to certain utilities companies (facilities that generate electricity with wind turbines, hydro turbines or from photovoltaic or hydraulic sources; electrical generators; radio transmitters; rail rolling stock; and mainframes for the copper access network). The IFER is payable in addition to the CET and is calculated on the basis of a scale specific to each sector.

#### Corporate property contribution (CFE)

The CFE is assessed annually by the municipalities that set the tax rate for businesses located in their area.

The tax base comprises the rental value of fixed assets subject to the property tax (buildings and land used for business purposes) that the company occupied at the end of the closing of the financial year N-2, with N being the tax year.

The land registry rental value for industrial businesses is equivalent to 8% of the cost of land, buildings and equipment. The rental value for industrial businesses receives a 30% deduction when calculating the CFE. The rental value of commercial premises and offices is set by the tax authorities.

Facilities intended for photovoltaic-based electricity production (solar panels) are exempt from the CFE.

When a company is created in year N, the rental value of all the premises, equipment and land the company owns as of December 31 of year N is eligible for a 50% deduction on taxes paid in year N+1.

Since January 1, 2014, CFE tax notices have been completely digitized.

#### Business value added contribution (CVAE)

The CVAE is assessed on the value added (VA) companies generate during the previous calendar year (January 1 to December 31) or during the last 12-month financial year if this does not coincide with the calendar year.

Only companies with annual pre-tax turnover of over €500,000 pay the CVAE.

The CVAE rate varies between 0.5% and 1.5%; the extent of the reduced rate depends on the company's annual turnover.

The CVAE is calculated based on VA that is capped at either 80% or 85% of turnover depending on whether the company's turnover is under or over €7,600,000.

#### CET exemptions

The following are **exempt from the CET** at the discretion of the local authorities:

- Subject to European Union caps on state aid, new companies operating in specific regional zones as well as companies formed to take over ailing businesses (for a period of two to five years only).
- Innovative new companies (*jeunes entreprises innovantes – JEIs*) for seven years after their startup date and for up to €200,000 over three years.
- New and expanded industrial businesses or businesses dedicated to scientific and technical research activities located in certain areas for two to five years, subject to EU caps and approval from the Public Finances Directorate of the French Finance Ministry (DGFiP). Companies do not require approval if they create a minimum number of jobs and meet minimum investment levels.

Also worth noting is that companies are exempt from the CET<sup>1</sup> in their startup year and that the CFE tax base is reduced by 50% in the second year.

(1) Unless the company is already set up as of January 1 of that year.



**WORKING EXAMPLE: CALCULATING THE CET**

A company makes the following capital investments in the year 'N':

Land and buildings (fixed assets subject to the property tax)	€30 million
Production equipment and tools (fixed assets not subject to the property tax)	€70 million
Estimated annual value added (after cap is applied)	€50 million

A local tax rate of 27.26% is set by the local authorities.

**CALCULATING THE CFE**

Rental value (RV) of fixed assets subject to the property tax	N	N+1	N+2
Land and buildings (fixed assets subject to the property contribution)	No CET due	€30 million	€30 million
The RV is 8% of these fixed assets, i.e. 30 x 8%		€2.4 million	€2.4 million
30% deduction of RV for industrial investments		-30%	-30%
RV after deduction		€1.68 million	€1.68 million
50% reduction in the second year (N+1)		-50%	
RV after reduction		€0.84 million	€0.84 million

No CET is due in the first year (N), while there is a 50% reduction in the tax base of the CFE component in the second year. Production equipment and tools are fully exempt.

CFE due from the company	N	N+1	N+2
Tax base		€840,000	€1,680,000
Rate		27.26%	27.26%
CFE due		€228,984	€457,968

**CALCULATING THE CVAE**

CVAE due = €50 million x 1.5% = €750,000 (no reduced rate since the annual turnover is presumed to exceed €50 million).

CALCULATING THE CET	N	N+1	N+2
CFE due		€228,984	€457,968
CVAE due		€750,000	€750,000
CET due		€978,984	€1,207,968

**IV.2 - PROPERTY TAX**

Companies are subject to property tax on the rental value of land (property tax on undeveloped land) and buildings (property tax on developed land). Land with buildings or infrastructure in place are included in the developed land category. The tax base is equal to the land registry rental value (or registered income) minus a standard 50% rebate for buildings or 20% for land. The same methods used to determine the CFE (see "Working

Example") are applied to assess the land registry rental value for buildings.

The amount of the tax to be paid can be calculated by multiplying the tax base by the rates decided upon by the local authorities (*communes* and *départements*).

Property tax (*taxe foncière* – TF) is payable by the building or land owner on January 1 each year. As such, a company created after January 1 of year N will not owe property tax for the startup year.

There are a large number of property tax exemptions, which include:

- New professional, industrial and commercial buildings that are partially exempt from property tax on developed land for the first two years after construction is completed.
- Tools and other equipment and operational material resources for industrial establishments (excluding property facilities).
- Facilities intended for the production of photovoltaic-based electricity (solar panels). These facilities are also exempt from the CFE (see “Working Example”).
- Companies operating in specific regional zones that are creating a new business, expanding operations or taking over

ailing businesses may benefit from temporary exemptions (between two and five years) at the discretion of the local authorities.

- Buildings owned by companies eligible for the innovative new company (JEI) tax status, which may be exempt at the discretion of the local authorities for a period of seven years. Local authorities may also agree to exempt businesses located in an innovation cluster from property tax.
- For individuals, new housing units completed as of January 1, 2009 with an overall energy performance level higher than the level required by the legislation in force (minimum exemption period of five years).

## IN DETAIL

### WORKING EXAMPLE: CALCULATING PROPERTY TAX

An industrial company makes and completes the following investments in year N:

Land	€100,000
Buildings	€600,000
Production equipment	€1,500,000

The tax base is calculated using the rental value of land and buildings only:

Land: 100,000 x 8%	€8,000
Buildings: 600,000 x 8%	€48,000
Hence, the gross rental value	€56,000
Standard 50% rebate	-50%
Net rental value after rebate	€28,000

Tax rate decided by local authorities:

<i>Commune</i>	15.00%
<i>Département</i>	12.41%
<b>Total</b>	<b>27.41%</b>

Property tax due over the three following years:

	Tax base	Rate	N	N+1	N+2	N+3
To the <i>commune</i>	€28,000	15.00%		€4,200	€4,200	€4,200
To the <i>département</i>	€28,000	12.41%		Exemption		€3,475
<b>Total</b>				€4,200	€4,200	€7,675

The company is exempt from property tax in year N as it is its startup year (assuming the company is created after January 1).

The company is also exempt from paying property tax to the *département* in the two years following the completion of the buildings.

## ORCOM INTERNATIONAL

# SUPPLEMENTARY DEPRECIATION ALLOWANCE: A TAX MEASURE TO PROMOTE BUSINESS INVESTMENT

**D**esigned to foster investment in manufacturing, the supplementary depreciation allowance offers firms a direct tax break based on the purchase price and depreciation period of certain assets. The scheme was initially due to end on April 14, 2016, but will now continue into 2017. To encourage companies to upgrade and update their production equipment, the supplementary depreciation allowance has also been extended to some types of IT equipment.

### ELIGIBILITY

All businesses (all sectors, all sizes) liable for tax on their actual net profits under a 'régime réel' system are eligible for the deduction. That means companies subject to corporate tax, as well as individuals or corporate entities liable for income tax whose profits come from a commercial, entrepreneurial, industrial or agricultural activity.

### How does it work?

The deduction equates to **40% of the original value** of the eligible assets, excluding financing costs. It is **spread evenly over the depreciation period** of the asset. The deduction is applicable to assets that are already eligible for declining balance schemes and fall under one of the following categories:

- Equipment and tools used for manufacturing or processing operations.
- Mechanical handling equipment.
- Equipment to purify or treat water or improve air quality.
- Equipment producing steam, heat or energy, except for equipment subject to regulated purchase tariffs.
- Equipment and tools used for scientific or technical research.
- Road vehicles weighing more than 3.5 tonnes and running exclusively on natural gas or biogas.
- Mountain lifts (funicular railways, drag lifts, cable cars, etc.).

- Systems, equipment, lines and cables for fiber-optic electronic communication networks that do not receive financial support from a public body (eligible regardless of the depreciation arrangements).
- Software contributing to manufacturing and processing operations (eligible regardless of the depreciation arrangements).
- IT equipment intended for use in a computer rack (eligible regardless of the depreciation arrangements).

To be eligible for the scheme, the capital goods must be acquired or manufactured between **April 15, 2015 and April 14, 2017** (or be the subject of a leasing agreement or rental contract with an option to purchase).

### ADVANTAGES OF THE SUPPLEMENTARY ALLOWANCE

In the case of an investment of €300,000 depreciated over eight years, the supplementary allowance enables the company not only to deduct the investment from its tax base, but also to deduct a further €120,000 from its basic taxable amount during this time.

This one-off deduction can also be combined with other schemes, including tax credits (France's research tax credit, tax credit for investment in Corsica, etc.) or investment grants (grants for job-creating investment in overseas territories, one-off depreciation of industrial robots, etc.). Furthermore, since this scheme is purely fiscal, the supplementary allowance must be dealt with outside of the company accounts and will have no impact on the asset's net value. The benefits derived from the scheme will therefore have no consequences on capital gains in the event of disposal.

**Xavier Poulet-Goffard**

PARTNER – HEAD OF INTERNATIONAL DEPARTMENT  
ACCOUNTANT, AUDITOR

## V. A WIDE RANGE OF TAX INCENTIVES FOR INVESTORS

### V.1 - TAX CREDITS

#### France's research tax credit is one of the most attractive incentives in the world

##### Eligible companies

Manufacturing, trading and agricultural companies that spend money on research are eligible to receive a tax credit which can then be offset against their corporate tax liability. If they do not owe any tax due to a lack of profits, they will receive the research tax credit (*crédit d'impôt recherche* – CIR) in the form of a cash rebate after a three-year period. SMEs (as defined by the European Union), innovative new companies (IEIs), startups and ailing companies qualify for an immediate research tax credit rebate (in year N+1).

France's public investment bank, Bpifrance, can arrange for SMEs more than three years old that are previous recipients of France's research tax credit to be granted the research tax credit upfront in the year in which expenditure is incurred (in year N instead of year N+1). This measure seeks to help SMEs and startups increase their cash flow in the year payments are incurred, instead of having to wait to file the research tax credit return before being reimbursed. Other types of companies can still cash in their research tax credit at a banking institution if they do not want to hold on to the credit for three years.

##### Calculating the research tax credit from eligible expenditure

To be eligible for the research tax credit, expenditure must be on basic research, applied research (test model of a product, operation or method) or experimental development (use of prototypes or pilot equipment). **Companies may request an advance ruling (*rescrit*)** from the tax authorities to see whether their operations qualify for the research tax credit; the tax authorities are then required to respond within three months. As of January 1, the application can be submitted after operations have begun, but at least six months before the research tax credit return is filed (form no. 2069).

The research tax credit amounts to 30% of total annual expenditure on research activities up to €100 million, and 5% of annual expenditure above this level. In France's overseas territories, the rate may rise to up to 50%.

Eligible research expenditure includes:

- Personnel costs (gross salaries and social security contributions) for researchers and research technicians working directly on research, plus an additional 50% of these amounts as flat-rate operating expenses.

- Gross salaries and social security contributions for junior final-year doctoral and post-doctoral research personnel that are counted in the research tax credit base at 400% of their value for the first two years of their first permanent contract. Thereafter, their salaries are recorded as research personnel costs.
- Depreciation of infrastructure and equipment used directly for research operations, plus an additional 75% as flat-rate operating expenses.
- Spending on technology watch (up to €60,000 per year).
- 50% of standardization costs.
- Depreciation of patents acquired for research purposes.
- Bonuses and payments relating to patent insurance contracts (up to €60,000 per year).
- Expenses incurred for the filing, maintenance and protection of patents and plant variety rights (*certificats d'obtention végétale* – COVs); 200% of spending on research contracted out to public-sector research agencies, higher education institutions offering Master's programs, technical centers, accredited public interest foundations in the research sector, scientific partnership foundations and public-sector scientific partnership institutions.
- Spending on research contracted out to accredited private-sector research agencies, or certified experts, up to triple the total amount of other research expenses eligible for the research tax credit.

If there is an arm's-length relationship between the company placing the order and the subcontracting company, the subcontracting expenses are capped at €10 million. However, if no arm's-length relationship exists (i.e. a group of companies), the subcontracting spending cap is set at €2 million. This €10 million cap is raised to €12 million when these expenses are contracted out to public-sector partners (research institutions, universities, public-service foundations, etc.)

Consultancy fees incurred regarding the research tax credit application process that either exceed €15,000, excluding tax, or 5% of the research tax credit tax base less any government support for R&D are deducted from the research tax credit tax base. These expenses are fully deducted from the research tax credit tax base when they are calculated proportionately to the credit obtained.

For innovation expenses incurred by SMEs, the tax credit amounts to 20% of eligible expenditure capped at €400,000 per year, i.e. a tax credit of up to €80,000 per year. The rate is increased to 40% in France's overseas territories.

##### A tax credit to boost corporate competitiveness and employment

A new competitiveness and employment tax credit (*crédit d'impôt pour la compétitivité et l'emploi* – CICE) was introduced in 2013. It amounts to 7% of remuneration paid as of January 1, 2017 for all salaries up to 2.5 times the statutory national minimum wage (*saire minimum interprofessionnel de croissance* – SMIC).

This rate of 7% is increased to 9% in France's overseas territories.

The CICE is not capped and can be offset against corporate tax (IS) a company owes for the year in which the payments were made. The remainder of the tax credit can be used to pay taxes owed over the next three years or reimbursed if it is not spent during that time. Certain companies like SMEs, innovative new companies (JEIs) and ailing companies may receive the credit immediately.

The CICE only covers salaries up to 2.5 times the statutory national minimum wage (SMIC), i.e. €3,700.68 gross per month in 2017. Salaries higher than this threshold are completely excluded from this tax credit.

The CICE credit calculated during the year these salaries are paid and before the tax credit is offset in year N+1 can be transferred to a lending institution. SMEs will also receive a partial guarantee from Bpifrance to carry out this type of pre-financing at a commercial bank or be able to request pre-financing directly from Bpifrance.

### **Family tax credit initiative helping employees with children to achieve a better work-family balance**

Companies can obtain a tax credit equal to 50% of the cost of child care for children under three years old paid for by the company's employees or 25% of the cost of issuing universal employment service vouchers (*chèques emplois universels*) to facilitate access to personal services (child care at home, domestic help, etc.).

The tax credit is capped at €500,000 per company per year. It can be offset against the company's corporate tax liability for the year in which the spending was incurred.

If the tax credit is greater than the tax due for the year in question, the difference is granted as a rebate.

### **Cinema/audiovisual tax credit to encourage creativity in France**

Cinema and audiovisual production companies which pay corporate tax can obtain a tax credit (cinema or audiovisual, as applicable) for their production expenditures. The tax credit is available for projects carried out in France to produce approved feature-length films and audiovisual productions.

The tax credit rate (cinema or audiovisual, as applicable) is calculated for each financial year and amounts to 20% of eligible technical expenses. Eligible expenditure items include: salaries and social security contributions for authors, performance artists, extras, technicians and manual labor, spending on technical materials, rents for film sets and film-editing expenses.

Transport, catering and accommodation expenses incurred in France are also eligible, subject to certain limits.

The cinema tax credit is capped at €4 million, regardless of the type of production.

The audiovisual tax credit (documentaries, fiction, animations) is capped at €1,250 or €1,300 per minute produced and delivered, depending on the type of production.

The tax credit (cinema or audiovisual, as applicable) can be offset against the company's corporate tax liability for the year in which the spending was incurred. If the tax credit is greater than the tax due for the year in question, the difference is granted as a rebate.

## **IN DETAIL**

### **TAX REBATE FOR INTERNATIONAL PRODUCTIONS (TRIP)**

With a view to improving France's attractiveness as an investment location, this tax credit has been extended to cinematographic or audiovisual productions produced by companies based outside France. This new measure ("TRIP") applies to expenditure incurred until December 31, 2019. The tax credit amounts to 30% of expenditure in France, capped at 80% of the film's total production budget. No more than €30 million can be claimed per film (and not per company).

Eligible expenditure must amount to at least €250,000 (versus €1 million previously) unless the production budget is lower than €500,000 (€2 million previously), in which case at least 50% of expenditure must be made in France.

To qualify, films must be approved by the National Center for Cinema and Animation (Centre national du cinéma et de l'image animée – CNC), which ensures that films contain elements of French culture, national heritage or landscape.

## Tax credit for video games

Video game development companies subject to corporate tax are entitled to a tax credit for video game development expenses which meet specific criteria and are approved by the National Center for Cinema and Animation (*Centre national du cinéma et de l'image animée* – CNC). To be eligible for the tax credit, games must incur development costs higher than or equal to €100,000, and also contribute to French and European creative diversity in the video-gaming field.

The tax credit amounts to 30% of total eligible expenditure, which essentially includes: depreciation of new assets and expenditure for technical or administrative staff responsible for creating games, copyrights, other costs, overheads and subcontracting up to €2 million. The tax credit is capped for all companies at €6 million per financial year.

## V.2 - TEMPORARY EXEMPTION FROM THE LOCAL ECONOMIC CONTRIBUTION IN AILING REGIONS

In certain designated areas in France – such as regional aid areas (*zones AFR*), urban enterprise areas (*zones franches urbaines* – ZFUs), employment priority areas (*bassins d'emplois à redynamiser* – BERs), military restructuring areas (*zones de restructuration de la défense* – ZRDs) – local authorities (*communes, départements, régions* and intermunicipal authorities) have the right to grant full or partial temporary exemptions from the local economic contribution (*contribution économique territoriale* – CET) to companies that set up or expand their operations or take over ailing businesses. The maximum exemption period is five years.

## V.3 - TEMPORARY EXEMPTION FROM CORPORATE TAX FOR NEW COMPANIES

### **Companies created before December 31, 2020 located in certain areas may qualify, subject to certain conditions, for a temporary exemption from corporate tax (*impôt sur les sociétés* – IS), diminishing over time.**

The exemption is 100% for the first 24 months, after which tax is levied on earnings at a rate of 25% in the third year, 50% in the fourth year and 75% in the fifth year. These exemptions are restricted to newly founded companies that are not more than 50% owned by other companies.

Companies benefiting from these measures may also be exempted at the discretion of the local authorities from paying the local economic contribution (*contribution économique territoriale* – CET) and/or property tax for a maximum period of two to five years.

Furthermore, companies subject to corporate tax set up before December 31, 2020 in order to take over an ailing industrial business may also, subject to certain conditions, receive exemption from corporate tax for the 24 months following the takeover as well as an exemption, at the discretion of the local authorities, from the CET and/or the property tax for a maximum period of two to five years.

A seven-year tax exemption is planned for businesses located in regions classified as military restructuring areas (ZRDs) as part of the “defense modernization plan”, which involves the closure of 83 sites or units between 2009 and 2016. Companies that relocate to employment priority areas (BERs) in the Champagne-Ardenne and Midi-Pyrénées regions are also fully exempt from corporate tax for either five or seven years (depending on the year in which they relocated) until December 31, 2017.

### **Innovative new companies are entitled to generous tax advantages**

Specific measures exist to help new companies whose research and development spending accounts for at least 15% of their tax-deductible costs.

The “innovative new company” tax status (*jeune entreprise innovante* – JEI) grants beneficiaries the following exemptions:

- Full exemption from corporate tax (*impôt sur les sociétés* – IS) in the first profitable year and then a partial exemption (50%) in the following profitable year.
- Exemption, at the discretion of the local authorities, solely for innovative new companies created before December 31, 2019, from the CET and/or the property tax for a period of seven years.
- Total tax breaks are capped at €200,000 in any three-year period.
- Furthermore, the salaries paid to these companies’ research personnel are fully exempt from employer social security contributions for four years and then on a diminishing basis for the following four years. These tax exemptions are capped at a monthly gross salary of €6,504 per employee per month. The total exemption for employer social security contributions during that same year is limited to €187,740 per company per year.

These measures are for SMEs created in the last eight years with under 250 employees, turnover of less than €50 million or total assets of less than €43 million that are more than 50% owned by individuals or by companies that meet the same criteria.

Sales of shares in these companies are exempt from capital gains tax if the seller has held the shares for three or more years and if the direct or indirect ownership of the seller, their spouse/partner and their ascendants/descendants has not

exceeded 25% of profit and voting rights since the shares were acquired.

These tax and social security measures have been extended to new university companies (*jeunes entreprises universitaires* – JEUs). New university companies are SMEs that are less than eight years old, at least 10% owned, individually or jointly, by current students, Master's degree postgraduates or postdoctoral students who received their degree within the last five years, or by people working in teaching and research fields and who fund at least 15% of research expenditure.

## VI. SPECIAL TAX SYSTEM FOR CERTAIN HEADQUARTERS

These centers must be set up solely for the provision of specialized services. Headquarters may provide only management, administration, coordination and auditing services, while logistics centers handle only packaging, labeling and distribution.

To be eligible, services must only be provided to companies in the same group and the majority of these must be located abroad. The tax rules are based on a fixed cost-plus formula that is arrived at in agreement with the tax authorities. This agreement eliminates the risk of a change in the cost-plus rate applied by the company during a subsequent tax audit. Tax is assessed at the standard rate on earnings that is derived by applying the agreed cost-plus formula to expenditure incurred by headquarters, logistics centers or R&D coordination centers. The cost-plus rate applied is usually between 6% and 10%; agreements are usually reached for periods of three to five years.

As part of the tax regulations seeking to eliminate expatriation costs, headquarters and logistics centers may pay supplementary remuneration that is fully or partially exempt from personal income tax to their expatriate employees. Companies must apply to the tax authorities to benefit from these measures, which may not be combined with the special exemption scheme for expatriate employees (now extended from five to eight years for expatriates assuming their new position from July 6, 2016): potential beneficiaries must opt for one or the other.







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# GLOSSARY

Below is a list of French terms that foreign companies are likely to encounter when locating their business operations in France, followed by a brief explanation in English. Readers should be aware that the technical terms in English serve only as a guideline and do not necessarily correspond entirely to the same concepts as the French terms.

## FRENCH TERM

## ENGLISH TERM

### A

Activité partielle

Short-time working

Activité professionnelle commerciale, artisanale, industrielle

Commercial, entrepreneurial or industrial activity

Activité professionnelle salariée

Salaried employment

Administrateur

Non-executive director

Aides à finalité régionale

Regional aid

Autorisation provisoire de travail

Temporary work permit

Autorisation / Homologation / Validation

Permission / Ratification / Approval

### B

Bail commercial

Commercial lease

Bail professionnel

Professional lease

Bureau de liaison

Liaison office

### C

Carte de séjour mention « commerçant »

“Business Activity” residence permit

Carte de séjour mention « salarié en mission »

“Employee on Assignment” residence permit

Carte de séjour mention « scientifique »

“Research Scientist” residence permit

Carte de séjour mention « compétences et talents »

“Skills and Expertise” residence permit

Carte de résident pour « contribution économique exceptionnelle »

“Exceptional Economic Contribution” residence permit

Carte de séjour mention « carte bleue européenne »

“European Blue Card” residence permit

Cadre dirigeant

Senior executive

Cadre / Non cadre

*Cadres* belong to a separate classification of employees under French employment law for the purposes of collective agreements and other employee rights

Cadre de haut niveau

Highly skilled employee

Centre des impôts

Tax office

Centre d'affaires

Business center

Changement de statut

Change of status

Code du Travail	French Labor Code (employment laws)
Comité d'entreprise	Works Council
Commune	City or municipal authorities
Contrat à durée indéterminée (CDI)	Permanent contract
Contrat à durée déterminée (CDD)	Fixed-term contract
Conseil d'administration	Board of directors
Conseil de surveillance	Supervisory board
Contribution économique territoriale (CET)	Local economic contribution
Convention collective	Sector-specific collective agreement on labor relations
Convention fiscale	Tax treaty
Convention de sécurité sociale	Social security agreement
Crédit d'impôt recherche	Research tax credit
<b>D</b>	
Déclaration unique d'embauche	Employee hiring form
Décret	Decree
Département	For administrative and political purposes, France is divided into 27 régions and 101 <i>départements</i> (broadly equivalent to a county in English-speaking countries). <i>Départements</i> are further subdivided into <i>communes</i> .
Détachement / salarié détaché	Posting / posted employee
Dirigeant	Company director (Chairman, CEO, Chief Executive, Managing Director, etc.)
<b>E</b>	
Entreprise individuelle	Sole proprietorship
Entreprise de taille intermédiaire (ETI)	Mid-size company
Entreprise Unipersonnelle à Responsabilité Limitée (EURL)	Single-shareholder limited liability company
Expatriation / Expatrié	Expatriation / Expatriate
Extrait K-bis	Company registration certificate
<b>F</b>	
Forfait jours	Flat-rate agreement (days worked per month/year)
<b>G</b>	
Gérant	Company director (of a limited liability company, e.g. SARL)
Greffe du tribunal de commerce	Commercial Court Registry
Groupement d'intérêt économique (GIE)	Economic interest grouping (business consortium)



## I

Immobilisations	Fixed assets
Impatrié	Tax status granted to expatriate employees in France, subject to certain conditions
Impôt sur les plus-values	Capital gains tax
Impôt sur le revenu	Income tax
Impôt sur les sociétés (IS)	Corporate tax
Impôt de solidarité sur la fortune (ISF)	Wealth tax
Inspection du Travail	Labor Inspectorate
Installation classée	Registered facility (aka “classified installation” in France)
Intercommunalité	Intermunicipal authority

## L

Livraison intracommunautaire	Intra-Community supply
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## M

Mairie	Municipal offices
Mandataire social	Company director (lead director authorized to represent the company)

## O

Office Français de l’Immigration et de l’Intégration (OFII)	French Office for Immigration and Citizenship
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## P

Personne morale	Corporate entity
Personne physique	Private individual
Plan social	Layoff plan / redundancy plan
Pôle emploi	National Employment Office
Prestation de service	Service provision
Procédure d’introduction	Admission procedure
Préfecture	The office of the Prefect, who is the local representative of national government in each French <i>région/département</i> .
Prime à l’aménagement du territoire (PAT)	Development grant
Prud’hommes	Labor or employment tribunal

## R

Récépissé	Receipt
Région	See entry for “département”
Registre du commerce et des sociétés (RCS)	Company Register
Résidence fiscale	Tax residence

## S

Salaires minimum interprofessionnel de croissance (SMIC)	Statutory national minimum wage
Salarié	Employee
Sécurité sociale	Social security
Service des impôts des entreprises (SIE)	Corporate tax office
Société anonyme (SA)	Public limited company (PLC)
Société à responsabilité limitée (SARL)	Limited liability company (LLC) / Private limited company (Ltd.)
Société civile	Non-trading partnership (e.g. real estate or medical services)
Société en commandite par actions	Limited partnership
Société en nom collectif	General partnership
Société par actions simplifiée (SAS)	Simplified limited company
Stagiaire	Intern / Trainee
Statuts de société	Company articles

## T

Taxe d'habitation	Housing tax
Taxe foncière	Property tax
Taxe sur la valeur ajoutée	Value-added tax
Taxe sur les très hauts revenus	Tax on high earners
Travailleur temporaire	Temporary worker

## U

Unité territoriale	Local employment authorities
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## V

Visa de circulation	Circulation visa
Visa court séjour/ Visa de long séjour	Short-stay visa / Long-stay visa
Visa de long séjour valant titre de séjour	Long-stay visa equivalent to a residence permit
Voyageur de commerce, représentant ou placier (VRP)	Business traveler, representative or travelling salesperson (special legal status)





# USEFUL CONTACTS

**Administration douanière**  
French Customs Authorities.

[www.douane.gouv.fr](http://www.douane.gouv.fr)

**Agence de l'environnement et de la maîtrise de l'énergie**

French Environment and Energy Management Agency.  
Government agency responsible for supporting ecological and energy transition. The ADEME helps finance research and projects in various fields, including waste management, land preservation, energy conservation/renewable energy sources, air pollution, and noise pollution.

[www.ademe.fr](http://www.ademe.fr)

**Ambassades et consulats français à l'étranger**  
French Embassies and Consulates.

[www.mfe.org/index.php/Annuaire/Ambassades-et-consulats-francais-a-l-etranger](http://www.mfe.org/index.php/Annuaire/Ambassades-et-consulats-francais-a-l-etranger)

**Autorité de la concurrence**

French Competition Authority – rules on anti-competitive practices and must be notified of large concentrations between undertakings.

[www.autoritedelaconcurrence.fr](http://www.autoritedelaconcurrence.fr)

**Autorité des marchés financiers (AMF)**

French Financial Market Authority – financial regulations.

[www.amffrance.org](http://www.amffrance.org)

**Bpifrance**

France's public investment bank, responsible for providing tailored financial support (loans, equity capital etc.) to companies at each stage of their development, from the start-up phase through to stock market flotation.

[www.bpifrance.fr](http://www.bpifrance.fr)

**Centre de formalités des entreprises (CFE)**

Business Formalities Center.  
CFEs provide a one-stop service for companies, enabling them to file a single document to register the establishment, modification or cessation of their business activity. In general, CFEs are either chambers of commerce and industry or the local Commercial Court Registry.

[www.annuaire-cfe.insee.fr/AnnuaireCFE/jsp/Contrôleur.jsp](http://www.annuaire-cfe.insee.fr/AnnuaireCFE/jsp/Contrôleur.jsp)  
[www.cfenet.cci.fr](http://www.cfenet.cci.fr)  
[www.infogreffe.fr/infogreffe/index.jsp](http://www.infogreffe.fr/infogreffe/index.jsp)  
[www.guichet-entreprises.fr](http://www.guichet-entreprises.fr)

**Centre de liaison européen des organismes de sécurité sociale**

Center of European and International Liaisons for Social Security.  
Acts as a liaison body between French social security organizations and those in other countries, with regard to international regulations and social security agreements.

[www.cleiss.fr](http://www.cleiss.fr)

**Centre national des firmes étrangères (CNFE)**

National Center for Foreign Firms.  
For foreign companies without a permanent establishment in France employing personnel.

[www.strasbourg.urssaf.fr](http://www.strasbourg.urssaf.fr)

**Chambre de commerce et de l'industrie**

Chambers of Commerce and Industry.  
Information on setting up a business (examples of articles of incorporation) plus general advice concerning legal and tax issues.

[www.cci.fr](http://www.cci.fr)

**Commissariat général à l'égalité des territoires (CGET)**

French Commission for Regional Equality.  
Department of the Prime Minister's office which works with the Minister responsible for regional development. The CGET is jointly responsible, along with the Ministry for industry, for France's innovation clusters. The CGET is also responsible for PAT grants, which encourage businesses and job creation.

[www.cget.gouv.fr](http://www.cget.gouv.fr)

Map of EU regional aid areas in France:  
[http://carto.observatoire-des-territoires.gouv.fr/#v=map1;i=typo\\_afr.zonage\\_afr;l=fr](http://carto.observatoire-des-territoires.gouv.fr/#v=map1;i=typo_afr.zonage_afr;l=fr)

**CNIL**

French Data Protection Authority.  
The CNIL checks that the law is respected through audits of computer data processing. Sensitive data processing is referred to the CNIL for authorization. The CNIL audits public use of individuals' national identification numbers and receives declarations regarding the processing of other data.

[www.cnil.fr](http://www.cnil.fr)

**Directions régionales des entreprises, de la concurrence, de la consommation du travail et de l'emploi (DIRECCTE)**

Regional Directorates for Enterprise, Competition, Consumption and Employment.  
The foreign labor department of the local employment authorities (unités territoriales) within each DIRECCTE issues work permits, among other responsibilities.

[www.direccte.gouv.fr](http://www.direccte.gouv.fr)

<p><b>Direction générale des entreprises (DGE)</b> Businesses Directorate</p>	<p><a href="http://www.entreprises.gouv.fr">www.entreprises.gouv.fr</a></p>
<p><b>Direction générale de la consommation, concurrence et de la répression des fraudes (DGCCRF)</b> Directorate for Competition Policy, Consumer Affairs and Fraud Prevention. <i>Responsible for the regulation and proper functioning of markets.</i></p>	<p><a href="http://www.economie.gouv.fr/dgccrf">www.economie.gouv.fr/dgccrf</a></p>
<p><b>Direction générale du Trésor (DG Trésor)</b> Treasury Directorate. <i>Receives declarations of foreign investment; authorizes investment in sensitive sectors.</i></p>	<p><a href="http://www.tresor.economie.gouv.fr">www.tresor.economie.gouv.fr</a></p>
<p><b>Direction générale des Finances publiques (DGFIP)</b> Public Finances Directorate. <i>Tax authorities. Single gateway for foreign investors.</i></p>	<p><a href="http://www.impots.gouv.fr">www.impots.gouv.fr</a> <a href="mailto:tax4business@dgfip.finances.gouv.fr">tax4business@dgfip.finances.gouv.fr</a></p>
<p><b>Directions régionales de l'environnement, de l'aménagement et du logement (DREAL)</b> Regional Directorate for the Environment, Development and Housing. <i>Reports to the State Prefect in the region, and is responsible for helping the authorities with environmental regulation (plans, programs, projects), and particularly with regulated facilities (ICPEs).</i></p>	<p><a href="http://www.developpement-durable.gouv.fr/Liste-des-12-DREAL.html">www.developpement-durable.gouv.fr/Liste-des-12-DREAL.html</a></p>
<p><b>Grefe des tribunaux de commerce</b> Commercial Court Registry. <i>Business startups (documents to be submitted with the articles), corporate takeovers.</i></p>	<p><a href="http://www.greffes.com/fr/formalites/guide-des-formalites">www.greffes.com/fr/formalites/guide-des-formalites</a></p>
<p><b>Institut national de la propriété intellectuelle (INPI)</b> French Patent and Trademark Office. <i>Government body that helps companies to protect their patents, trademarks, and design rights. Provides information on intellectual property rights and companies.</i></p>	<p><a href="http://www.inpi.fr">www.inpi.fr</a></p>
<p><b>Ministère de l'Économie et des Finances</b> Ministry for the Economy and Finance</p>	<p><a href="http://www.economie.gouv.fr">www.economie.gouv.fr</a></p>
<p><b>Ministère de l'Éducation nationale, de l'Enseignement supérieur et de la Recherche</b> Ministry for Primary, Secondary and Higher Education and Research.</p>	<p><a href="http://www.education.gouv.fr">www.education.gouv.fr</a> <a href="http://www.recherche.gouv.fr">www.recherche.gouv.fr</a></p>
<p><b>Ministère de l'Environnement, de l'Énergie et de la Mer</b> Ministry for Environment, Energy, and Oceans.</p>	<p><a href="http://www.developpement-durable.gouv.fr">www.developpement-durable.gouv.fr</a> ICPE Inspectorate website: <a href="http://www.installationsclassees.developpement-durable.gouv.fr/">www.installationsclassees.developpement-durable.gouv.fr/</a> (in French, English and German). The ICPE nomenclature can be consulted in the section "Classified installations: principles".</p>
<p><b>Ministère du Travail, de l'Emploi et du Dialogue social</b> Ministry for Labour, Employment and Industrial Relations. <i>Procedures for hiring foreign salaried employees, addresses of regional employment offices, practical information on French employment law.</i></p>	<p><a href="http://www.travail-emploi.gouv.fr">www.travail-emploi.gouv.fr</a></p>
<p><b>Pôle emploi</b> National Employment Office – <i>places the unemployed into work and administers benefits.</i></p>	<p><a href="http://www.pole-emploi.org">www.pole-emploi.org</a></p>
<p><b>Portail de l'administration française</b> French government portal.</p>	<p><a href="http://www.service-public.fr">www.service-public.fr</a></p>
<p><b>Union européenne</b> European Union.</p>	<p><a href="http://www.europa.eu.int">www.europa.eu.int</a></p>
<p><b>Union de recouvrement des cotisations de sécurité sociale et d'allocations familiales (URSSAF)</b> <i>Agency responsible for collecting social security contributions.</i></p>	<p><a href="http://www.urssaf.fr">www.urssaf.fr</a></p>



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**Disclaimer:** This document presents the basic rules that apply to international companies locating their business in France. For practical purposes, this document presents a general overview and basic information about legal, tax and labor issues to facilitate company decision-making. The information herein is not comprehensive and Business France cannot be held liable for any omissions or errors. Investors are advised to use the services of professional consultants for guidance on individual cases.

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**Business France is the national agency supporting the international development of the French economy.**

Responsible for fostering export growth by French businesses, as well as promoting and facilitating international investment in France.

It promotes France's companies, business image and nationwide attractiveness as an investment location, and also runs the VIE international internship program.

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