

MARCH 2015

DOING BUSINESS IN FRANCE

In 2014, France reaffirmed its position as a leading recipient of job-creating foreign investment in Europe. Numerous reforms have been initiated in recent years to continually improve France's regulatory framework.

Two Strategic Attractiveness Council meetings in February and October 2014 saw around thirty leading foreign company executives meet with the French President to discuss how to attract further foreign talent and investment to France.

This "Doing Business in France" guide, written by Business France experts in association with recognized specialists (law firms, auditors, accountants and human resources consultants), has been designed especially for foreign company directors seeking to invest in France, where around 20,000 foreign companies are already established, running businesses under many different legal forms.

The reforms that France is currently pursuing to improve competitiveness and the business environment have a number of aims:

- To promote R&D and innovation with France's research tax credit and innovation clusters.
- To increase corporate profit margins through the competitiveness and employment tax credit.
- To reduce labor costs by lowering social security contributions, as set out in the Responsibility and Solidarity Pact.
- To make it easier for companies to obtain effective and tailored financial support through Bpifrance, France's public investment bank.
- To introduce greater flexibility into the labor market and build upon renewed social dialogue.
- To support and bring forward corporate investment by increasing legal certainty for investors, for example through advance tax rulings, a one-off supplementary depreciation allowance, and a charter concerning non-retroactivity for tax issues.

This publication seeks to be an authoritative working reference guide, providing a detailed overview of this business-friendly environment that is making it easier to invest and innovate in France.

Whatever your query, please do not hesitate to contact Business France, which is ready to serve as a key contact in ensuring the success of investment projects carried out by companies and entrepreneurs in France.

Muriel Pénicaud

Ambassador for International Investment,
CEO of Business France

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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.

IN DETAIL

SIMPLE STEPS FOR FOREIGN INVESTORS TO FOLLOW:

SIMPLE STATISTICAL OR ADMINISTRATIVE RETURN

Formality	Cases
Return for statistical reasons filed with the Banque de France	<ul style="list-style-type: none"> 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.
Return filed with the Ministry responsible for the Economy (Treasury Directorate)	<ul style="list-style-type: none"> When new companies are created, if the investment exceeds €1.5 million. Transactions (with no minimum amount) that result in the acquisition of all or part of a business line. Acquisition of a direct or indirect equity interest in (or any other transaction with) a French company amounting to more than one-third of its shares or voting rights (unless the investor already has a majority interest in the French company).

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.
- 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>1 • Gambling (excluding casinos) 2 • Regulated private security services 3 • Research, development or manufacture of means to prevent the illicit use by terrorist networks of biological or toxic agents, and associated health-related risks. 4 • Communications interception equipment. 5 and 6 • Security audit and certification for IT systems and contracted provision of security services in IT sectors for specified public- and private-sector entities. 7 • Dual-use items. 8 • Encryption and decryption systems for digital applications. 9 • Businesses privy to classified defense information. 10 • Weapons, munitions and explosives for military applications or equipment used in warfare. 11 • Businesses contracted to design or supply specified equipment or services to the French Ministry of Defense or its subcontractors. 12 • All business activities deemed crucial to France’s national interests relating to public order, public security and national defense, namely: a-Integrity, security and continuity of energy supplies. b-Integrity, security and continuity of water supplies. c-Integrity, security and continuity of transport services and networks. d-Integrity, security and continuity of electronic communication services and networks. e-Integrity, security and continuity of vitally important establishments. f-Protection of public health.</p>
Investments from EU or EEA Member States	<p>1 • For transactions involving the acquisition of a controlling interest: points 8 to 12 above. 2 • For transactions involving all or part of a business line of a company with interests in the following sectors:</p> <ul style="list-style-type: none"> Specified private security services. Specified biological or toxic agents and chemical weapons. Specified communications interception equipment. Specified security audit and certification for IT systems and contracted provision of security services in IT sectors for specified public- and private-sector entities. Commercial dual-use items specified in annex IV of EU regulation no. 428/2009 of 5 May 2009 with a bearing on national defense. <p>NB: Prior authorization is only required in some of these cases as a safeguard against terrorist or criminal activity.</p>

FOR FURTHER INFORMATION:

Articles L151-3 of the French Monetary and Financial Code.

Articles R153-1 and following of the French Monetary and Financial Code.

Ministerial Order of March 7, 2003, detailing the information necessary to complete returns or requests for authorization.

Contact the Ministry for the Economy, Industry and Digital Affairs: *Ministère de l'Économie, de l'Industrie et du Numérique, Direction générale du Trésor / Multicom 3 / Télédod 233, 139, rue de Bercy, 75572 Paris Cedex 12 / Tel: + 33 1 44 87 20 30*

I - SIMPLIFIED FORMALITIES FOR CUSTOMIZED BUSINESS SOLUTIONS

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

I.1 - 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

Formalities for setting up, changing or closing a company or branch can be completed online. You can also track the progress of your applications on the internet.

FOR FURTHER INFORMATION:

www.cfenet.cci.fr, www.guichet-entreprises.fr

Regulated professions

In principle, 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.

However, as a one-stop shop, CFEs are gradually beginning to receive all the applications for registration, authorization and declarations required to open specific lines of business, apart from actually founding the company (i.e. professional licensing, registering with trade associations, filing declarations with municipal offices or the *Préfecture* to open a business, etc.).

I.2 - A REPRESENTATIVE IN FRANCE TO MANAGE FORMALITIES

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.

I.3 - BUSINESS ENTITIES TO SUIT ALL NEEDS

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.

Reducing administrative procedures: simple solutions

A foreign company wishing to prospect for business in France can start by hiring a single employee or by opening a liaison office. This option involves a specific tax and company status.

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

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 may conduct only a very limited amount of non-commercial operations, such as prospecting, advertising, providing information, storing merchandise, or other operations of a preparatory or auxiliary nature. They are not separate legal entities. Invoices must be issued by the parent company, which must also sign any contracts.

Tax law stipulates that while liaison offices must pay certain local taxes and social security contributions, they are not subject to corporate tax or VAT since they are not considered to be permanent establishments. If, however, the office conducts commercial activities, in particular where an employee signs contracts on behalf of the foreign company employing them, or fulfills a complete manufacturing cycle, or acts as a fixed place of business through which the company conducts all or part of its trade, it may be reclassified as a permanent establishment. Companies wishing to safeguard their business 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).

Registering a liaison office

While registering a liaison office is not required in principle, it becomes necessary when the office has its own premises or is to be used to employ several employees in France. A declaration must be made to:

- URSSAF in the Bas-Rhin *département* if the liaison office has employees registered with the French social security system (using the EO form).
- The local corporate tax office (*Service des impôts des entreprises* – SIE) if the liaison office does not have any employees registered with the French social security system.

However, for commercial activity to be conducted, or for practical reasons, the liaison office must be registered as a branch in the Company Register (*Registre du commerce et des sociétés* – RCS). Documents to be submitted are identical to those required to set up a branch.

Various sales force options

• Sales representatives

Sales representatives may be a VRP (*voyageur de commerce, représentant ou placier* – business traveler, representative or traveling salesperson) which is a company employee with a special legal status.

VRPs are intermediaries employed by one or more companies ("Exclusive"/"Multi-card" VRP) to visit customers in the representative's sales territory. These representatives work independently, contacting prospective clients to offer goods and services. Their primary responsibilities are making sales calls, taking orders and submitting these to their employers.

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.

The business activity of a VRP may be considered as a permanent establishment of the foreign company employing the VRP if they sign contracts on behalf of the company.

• Sales agents

Foreign companies may also use the services of a sales agent, i.e. a self-employed individual or a company that acts on their behalf. Agents are 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). They may work for one or more companies, and in most cases are responsible for a defined geographical area and/or business sector. They are paid in part or in full by commission on completed transactions.

Since sales agents are external suppliers and not salaried employees, specific rules apply when agreements with them are terminated. Except in cases of professional misconduct, the agent is entitled to compensation based on gross commissions received (in principle, this is equivalent to two years' worth of gross commissions).

Small and medium-sized companies often prefer to use sales agents as a flexible and inexpensive means of introducing their products to foreign markets.

IN DETAIL

COMPARISON BETWEEN DIFFERENT TYPES OF SALES REPRESENTATIVE

Type of sales representative	Status	Payment method
Salesperson	Company employee	Salary and any profit-sharing
VRP	"Exclusive" VRP	Salary and any profit-sharing or commissions with guaranteed minimum
	"Multi-card" VRP	Sales commissions
Sales agent	Private individual or corporate entity acting on company's behalf	Sales commissions

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.

Branches - a basic option

Branches enable foreign companies to create their first establishment in France, which may include commercial operations.

Branches are headed by a legal representative, functioning like an agency and reporting to headquarters, and have no official restrictions on their decision-making powers. They may carry out all the operations of an industrial or commercial company, but are not separate legal entities and the parent companies are responsible for their initiatives. If they encounter financial problems, the parent company bears liability for their debts.

Branches are permanent establishments with regard to tax laws and must pay corporate tax and VAT. The subsequent conversion of a branch into a separately incorporated subsidiary is possible, but must comply with rules governing the sale and transfer of a business, and is subject to taxation.

Registering a branch

Registration is mandatory for branches. The registration application must include (in addition to the MO form):

- One 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).
- An original registration certificate issued by the foreign company register in the last three months and translated into French.
- 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.
- Proof of address of the branch.

Creating a subsidiary, a company incorporated under French law, offers certain advantages:

- Segregation of subsidiaries' and parent companies' assets means that foreign companies do not bear unlimited liability for the debts of their French structures. On the other hand, losses by subsidiaries cannot be offset against parent companies' profits.
- Subsidiaries may apply for government support when starting up or expanding.
- Subsidiaries can enter into agreements on sales and technical royalties, commissions, etc.

The subsidiary must pay all applicable taxes. Investors are advised to seek specialist legal advice when setting up a subsidiary. Bar associations can provide lists of lawyers in France (see the French Bar Association website: <http://cnb.avocat.fr>).

Registration formalities for companies under French law

The company becomes a separate legal entity when it is entered in the Company Register (*Registre du commerce et des sociétés* – RCS). The founders are personally liable for their legal commitments during the incorporation phase, and these are consequently assumed by the newly incorporated company.

The registration application for the new company must include (in addition to the MO form):

- An original copy of the articles giving the names of the directors and, where appropriate, the names of the statutory auditors.
- A summary, appended to the articles, of the formalities completed on behalf of the new company.
- Two signed and dated copies of the independent auditor's report, if capital contributions in kind are involved.
- A copy of the lease or ownership deed to the business premises.

- A copy of the legal gazette containing notification of the company's establishment.
- 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)
- A certified clean criminal record and a representative's mandate.
- If appropriate, a copy of the professional license, degree or certificate required to exercise a regulated profession.
- A certificate of deposit from a bank for the new company's initial capital reserve.

Once the application is received, the Commercial Court Registry issues a business creation certificate (*récépissé de dépôt de dossier de création d'entreprise*), free of charge, enabling company set-up procedures to go ahead.

After these formalities, the Registry issues a "K-bis" registration certificate, an official identification document for your company which certifies that the company has been founded.

FOR FURTHER INFORMATION:

The French Office for National Statistics and Economic Studies (INSEE) which allocates the APE code corresponding to the company's primary business and the SIREN and SIRET numbers (company and establishment registration numbers).

II - LEGAL STRUCTURES TAILORED TO DIFFERENT NEEDS

II.1 - THE THREE MAIN TYPES OF LIMITED LIABILITY COMPANIES

In this case, financial liability is limited to the amount of owners' capital contributions. Such entities 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

THE FIRST KEY STEPS IN CREATING A SUBSIDIARY

Creating a company involves carrying out a number of steps before the company can be registered. Investors should anticipate the following steps:

- Seeking public or private investment (loans, venture capital, business angels, mutual investment funds in innovation etc.).
- Seeking business premises and a business address agreement for the company's registered office, a commercial lease or the acquisition of real estate.
- The type of legal structure for the business (e.g. SAS / SARL or SA).
- 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.).
- Planning the appointment of the company officers.
- 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").
- 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*).
- Declaring the domain name of the company website, if one exists.
- Appointing the statutory auditor(s), where relevant.
- Evaluating capital contributions in kind by an independent auditor, where relevant.
- Constituting the share capital: opening a bank account in France and depositing the capital of the company being formed.
- Registering the articles within a month of their adoption with the tax authorities at the registered office's location (free of charge).
- 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 registrar 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).

IN DETAIL

APPROVAL OF ANNUAL ACCOUNTS

This decision is made by partners 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 at www.i-greffes.fr).

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 and management reports are to be approved.

II.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 – *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.

II.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.

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

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.

III - PARTNERSHIPS AND TAKEOVERS

French law makes full provision for business partnerships and takeovers.

III.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: www.amf-france.org.

Comparison of the main forms of limited liability companies in France

	Société à responsabilité limitée (SARL)	Société anonyme (SA) usual form (Board of directors)	Société par actions simplifiée (SAS)
Key advantages	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.
Directors	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.
Director's status	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).	The director can also have an employment contract if certain conditions are met (work as a subordinate, separate from company officer role).	
Appointment and dismissal of Directors	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.
Minimum capital	No minimum: sufficient capital to finance long-term needs. Partners define the amount in the articles. At least one-fifth of contributions must be paid-up capital when the company is founded and the balance over five years. Restrictions apply to issuing bonds.	Minimum of €37,000. Half the capital must be paid up when the company is founded and the balance over five years. Public offerings permitted.	No minimum: sufficient capital to finance long-term needs. Partners define the amount in the articles. At least half of all contributions must be paid-up capital when the company is founded and the balance over five years
Contributions	Sweat equity ¹ permitted.	No sweat equity permitted.	Sweat equity permitted.
Partners / shareholders	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
Quorums for meetings	25% of voting rights on first notice and 20% on second notice of Extraordinary General Meeting.	For an Extraordinary General Meeting, 25% of voting rights on first notice and 20% on second notice. For an Ordinary General Meeting, 20% on first notice and no quorum on second notice.	According to the articles; no obligation to hold an annual meeting of shareholders.
Blocking minority	Extraordinary General Meetings: 33% + 1 vote for amendments to the articles. Ordinary General Meetings: 50% of voting rights + 1 (or majority of votes on second notice).	1/3 of votes at Extraordinary General Meeting. 50% of votes in Ordinary General Meeting.	According to the articles.
Liability of partners / shareholders	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
Transfers	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%	
Auditors	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.
Tax system	Corporate tax ² 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 forming the capital 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.

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:
www.autoritedelaconcurrence.fr

III.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.

III.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.

IV - CORPORATE REAL ESTATE TO MEET VARIOUS NEEDS

IV.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)

IV.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 is the most common option

Companies generally sign commercial leases, which are governed by strict legal provisions protecting the tenant's rights.

The statutory term for commercial leases is 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 (*activité*), but the parties to the lease can agree to amend the lease to change the initial purpose or add another activity (*déspécialisation*).

Long- and very-long term leases

A long-term lease (*bail emphytéotique*) is particularly suited to activities of an industrial nature, or those requiring a long run-in before turning profitable, and is 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.

A more flexible option: a professional lease

Non-trading businesses (independent professionals / contractors / practitioners, etc.) that choose not to sign a commercial lease may rent premises under the terms of “professional” leases, which afford them less protection. The statutory term is at least six years for office premises, and unlike with commercial leases, tenants do not enjoy renewal rights.

IV.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

Many 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 zones 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.

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.

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.

V - RULES FOR 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.

V.1 - DIFFERENT PROCEDURES DEPENDING ON THE EXTENT OF RISKS AND POLLUTIONS

Activities covered by legislation on regulated facilities (ICPEs) are listed in a nomenclature that can be downloaded from the ICPE Inspectorate website (cf. below). Depending on the significance of the risks or disadvantages that may result, the nomenclature obliges the facility to follow a declaration procedure (D or DC if the facility is subject to periodic inspection by a certified organization), registration (E) or permit (A or AS for permit with public utility easement). Permits with public utility easement concern the most hazardous facilities. In the case of facilities subject to the AS procedure, the formalities are the same as for obtaining a permit, but entail additional urban planning restrictions and prohibitions in order to prevent third parties setting up close to these high-risk activities.

The prospective operator is responsible for identifying the categories of the nomenclature that apply to the facility. It

EXAMPLE

(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 40,000 m ³	A
	2 - Equal to or greater than 1,000 m ³ , but less than 40,000 m ³	E
	3 - Equal to or greater than 100 m ³	D

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

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.

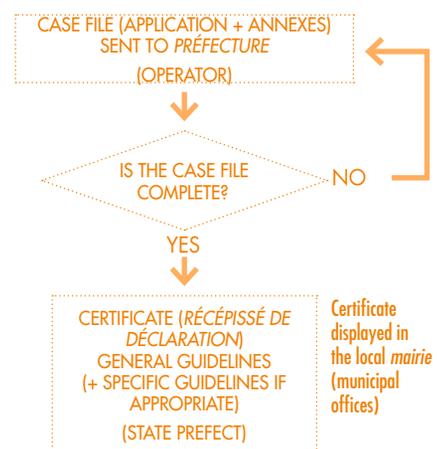
FOR FURTHER INFORMATION

ICPE Inspectorate website: www.installationsclassees.developpement-durable.gouv.fr/ (in French, English and German). The ICPE nomenclature can be consulted in the section “Classified installations: principles”.

V.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.

Declaration procedure



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 (www.legifrance.gouv.fr).

V.3 - REGISTRATION

Facilities required to register

The system of registering regulated facilities, which falls between the declaration and permit procedures, is designed to make the applications easier to understand and to reduce authorization periods. Registration applies to standardized facilities (sectors or technologies with well-understood environmental impacts and hazards) that are not located in environmental conservation areas.

Since the introduction of this simplified procedure in 2009, more than thirty categories of the nomenclature that previously required the facility to obtain a permit now only require the facility to be registered. Depending on the volumes processed, these may pertain to 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 registration procedure is 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. The future operator may request modifications, however if they are significant the Prefect can rule that the request be reviewed as a permit application.

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.

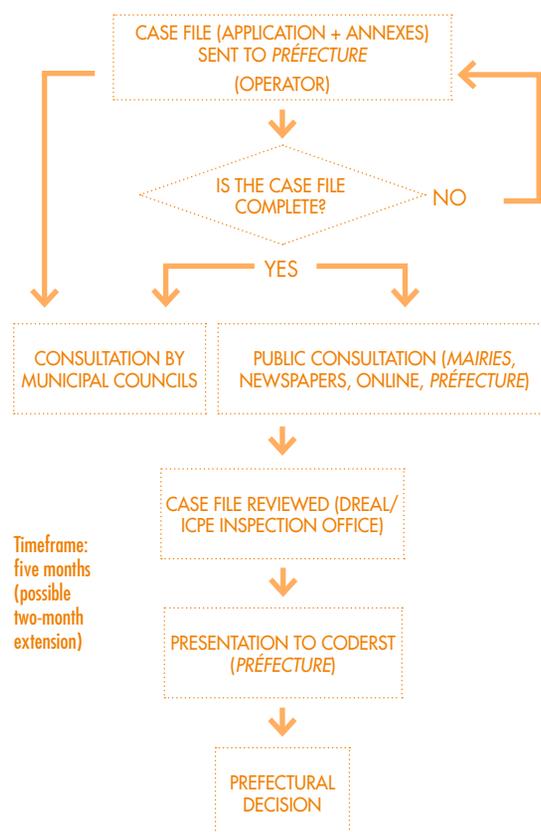
The application case file is lighter than for a permit application, and operators are not required to provide an impact study or safety report. The key document for the registration case file is a document vouching that the general guidelines applicable to the facility have been followed. To provide evidence of compliance, the applicant can refer to the guides to help vouch for compliance available at the ICPE Inspectorate website. When setting up the facility also requires a construction permit to be obtained, a receipt for the construction permit application must be included with the registration application or forwarded within 10 days.

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, 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.

Registration 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

V.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:

- 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).

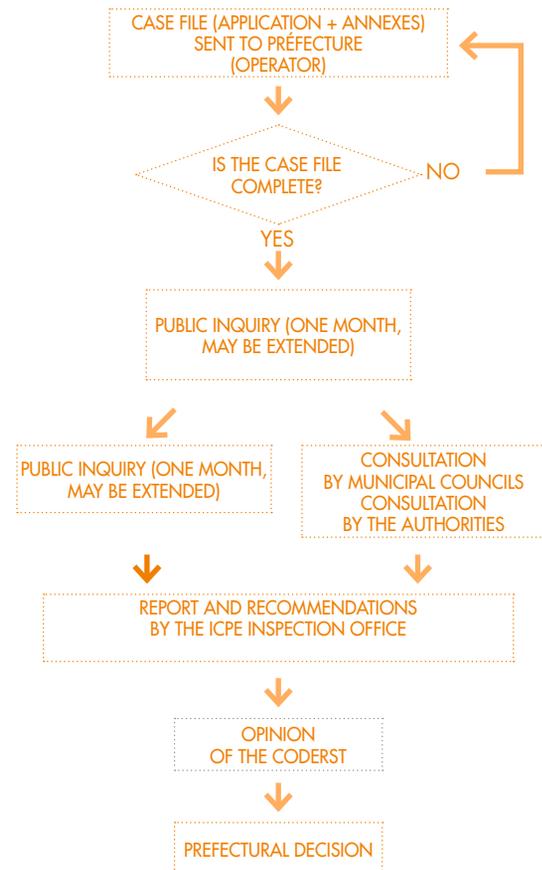
When setting up the facility also requires a construction permit to be obtained, a receipt for the construction permit application must be included with the permit application or forwarded within 10 days.

The permit 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 consultation phase involves a number of different government departments (central government divisions in Frances' 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 eight to 12 months after the application is filed.

Permit procedure



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 procedure and compilation of the case file to offer advice and support. The DREAL and the operator remain in constant contact throughout the review process.

A trial has been underway of a Single Permit for regulated facilities (ICPEs) since May 2014 in a number of regions – Champagne-Ardenne and Franche-Comté for all ICPE projects requiring a permit; Bretagne (Brittany), Basse-Normandie, Champagne-Ardenne, Franche-Comté, Midi-Pyrénées, Nord-Pas de Calais and Picardie for projects involving wind turbines and methanogenesis – and is due to be rolled out nationwide.

Advantages for investors include streamlined procedures (bringing together all government decisions required to execute a project; a single application process; a single contact point) as well as new procedural deadlines of up to 10 months.

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 (www.legifrance.gouv.fr).

V.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.

V.6 - LOGISTICS FACILITIES

Logistics facilities are used to store merchandise. In an effort to prevent accidents, indoor storage facilities are required to make a declaration, register or obtain a permit, depending on their storage volume.

As such, indoor facilities must:

- Make a declaration if the storage volume is between 5,000 and 50,000 m³.
- Register if the storage volume is between 50,000 m³ and 300,000 m³.
- Obtain a permit if the building's capacity exceeds 300,000 m³.

THE *SOCIÉTÉ PAR ACTIONS SIMPLIFIÉE*: EFFICIENCY À LA FRANÇAISE

Pierre-Louis Périn

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KING & WOOD MALLESONS (KWM)

As the first and only global law firm to be headquartered in Asia, King & Wood Mallesons is connecting Asia to the world, and the world to Asia. By joining superior execution capability with cultural understanding, we help our clients engineer their boldest plans and connect them with opportunities in and out of Asia. Strategically positioned in the world's growth markets and financial capitals, the firm is powered by more than 2,700 lawyers across more than 30 international offices spanning Asia, Australia, Europe, the Middle East and North America.

INTERNATIONAL RECOGNITION

The *société par actions simplifiée* (simplified limited company) or SAS first appeared in France 20 years ago. The key concept in its creation was that its founders should be allowed to organize the company as they wish, in line with their own needs. An SAS is not a second-class form of company: it can issue all types of shares and financial securities, enabling it to benefit from the best sources of funding with only one limitation: an SAS cannot offer financial securities to the public.¹

Since its introduction, the SAS has enjoyed international recognition, to such an extent that it has been emulated by a number of countries: Morocco, Colombia and now the 17 African states united within OHADA² have all adopted the SAS. In 2014, UNCTAD acknowledged the relevance of this company form, focused on the needs of the business and contractual freedom. In France itself, the SAS has been highly successful: 40% of newly founded companies are incorporated as an SAS, and this percentage is growing steadily. The success of this innovative structure can be explained by the benefits arising from its simplicity and freedom of organization.

Foreign partners who wish to invest in the share capital of an existing SAS, or to create a new one, can do so in a clear tax framework, as an SAS is treated as if it were a stock corporation (*société anonyme* – SA). It also benefits from European Union regulations exempting dividends from withholding tax when payments are made to a European parent company.

From an American perspective, an SAS can also be treated, through the “check the box” option, as tax transparent or opaque – unlike an SA, which cannot be treated as a tax transparent entity.

Disputes relating to the functioning of an SAS are governed by French law. France has a sophisticated and well-established corporate law system, supplemented by jurisprudence, which helps to provide legal certainty for all parties. Commercial courts have jurisdiction over all such disputes, unless an arbitration clause has been agreed upon by the parties. Mediation may also be pursued.

GREATER RIGHTS FOR MINORITY SHAREHOLDERS

For a minority shareholder, especially a foreign one, an SAS is preferable to other corporate forms, such as an SA, in which French law grants extensive powers to the majority shareholder. Conversely, it is possible in an SAS to negotiate and set out specific rights for minority shareholders in the company's articles of association. Various methods may be used: minority shareholders may have one or more reserved seats on the board of directors; the articles may stipulate that certain decisions will only be made with the approval of a shareholder or a category of shareholders; and required majorities may be increased to provide a blocking minority, or veto rights may be attached to a specific share (golden share).

In companies such as these, as well as in joint ventures, provisions should be made for dealing with deadlock and exit proceedings. Exit provisions may involve put and call options or auction processes.

For maximum effectiveness, all of these rights should be set out in the articles of an SAS. However, they may alternatively be included in a shareholder's agreement to preserve confidentiality.

BENEFICIAL SHARE BUYBACK RULES

From a legal point of view, the SAS benefits from two sets of buyback rules. On the one hand, it may achieve a capital reduction by way of a traditional share redemption program under ordinary French law, which imposes strict rules as to the level of available shareholder equity, equality between shareholders, and creditor opposition rights. Alternatively, the statutes governing an SAS provide for a simplified buyback procedure (art. L. 227-16 et seq. of the French Commercial Code), falling partly outside the scope of ordinary French law, that may facilitate buybacks by an SAS.

Such flexibility is all the more important as the tax treatment of share buybacks has recently been enhanced: the gain from a buyback is now taxed as a capital gain rather than a dividend. Accordingly, the 3% contribution on dividends no longer applies to buybacks. For non-resident shareholders, the capital gain resulting from the buyback is usually not taxable in France due to the application of key tax treaties.

¹ For a detailed survey of the SAS' regime, please refer to: Michel Germain and Pierre-Louis Périn, SAS - La société par actions simplifiée, July edition - Lextenso, 5th edition 2013

² Organization for the Harmonization of Business Law in Africa

PROJECT CERTIFICATES AND SINGLE PERMITS: TRIALS TO SIMPLIFY ENVIRONMENTAL PROCEDURES

Projects to build industrial or agricultural facilities that may have an impact on the environment require a range of permits stemming from various environmental and urban planning regulations, all issued by a single government authority. These regulations are subject to periodic legislative or regulatory changes. To simplify and consolidate these permit procedures, the government is trialing two new schemes: Project Certificates and Single Permits.

Guillaume Forbin
LAWYER

Lamia M'Zebba
LAWYER

ALTANA LAW FIRM

Altana is a French law firm. With a team of 60 business-oriented lawyers, it advises clients on business setup, partnership and joint venture strategies, merger and acquisition projects and litigation.

1. TRIAL PERIOD TO SIMPLIFY PROCEDURES

All owners of projects required to obtain a special permit for regulated facilities (*installations classées pour la protection de l'environnement – ICPEs*) or for facilities, structures and work required by water legislation to accommodate business premises (*installations, ouvrages et travaux destinés à l'accueil d'entreprises par la législation sur l'eau – IOTAs*) can now submit a Project Certificate application to the State Prefect in the *département* where the project is located. The aim is to enable firms to obtain a certificate from the authorities within two months.

The certificate itself specifies the procedures to which the project will be subject as a result of the applicable legislation and regulations. It also includes a pledge from the authorities to have identified all the applicable procedures and to take the decisions incumbent upon them within a set time period. The authorities may therefore be liable should they provide erroneous information or fail to meet their deadlines. The certificate sets out the regulations that apply to the project starting from its date of issue for an 18-month period (which may be extended by a further six months upon request from the project owner), unless the project owner requests that more recent and advantageous provisions be applied. As regards the Single Permit, subsequent to a review phase and a public inquiry considering all the permit requests submitted for a project, the State Prefect may issue a Single Permit encompassing all the individual permits required for the project's completion. For ICPE projects, the Single Permit incorporates ICPE permits,

construction permits, land clearing permits, exemption from rules protecting certain species and habitats, and permits falling under the French Energy Code. For IOTA projects, it encompasses the same permits, together with specific IOTA permits, but does not include urban planning permits.

2. TRIALS OF NEW PROCEDURE PROVIDED FOR BY THE "ECONOMIC ACTIVITY" BILL CURRENTLY BEFORE PARLIAMENT

These trials, in a limited number of regions, are taking place over three years beginning in April 2014 (June in Brittany) and ending in late March 2017.

Project Certificates apply to ICPE projects in the regions of Brittany, Champagne-Ardenne, Aquitaine and Franche-Comté (with the exception of livestock farming facilities in Brittany), as well as IOTA projects in Aquitaine and Franche-Comté. They are also being trialed in Franche-Comté for real estate development projects.

The Single Permit trial covers all ICPE projects in Champagne-Ardenne and Franche-Comté, while it will be restricted to power generation facilities in Basse-Normandie, Brittany, Champagne-Ardenne, Franche-Comté, Midi-Pyrénées, Nord-Pas de Calais and Picardie. It has also been extended to IOTA projects in Rhône-Alpes and Languedoc-Roussillon.

In Franche-Comté and Champagne-Ardenne, project owners can obtain both a Project Certificate and a Single Permit for the same ICPE project.

The Act of December 20, 2014 extends the Single

Permit trial to applications submitted at the end of the trial period, while the "Economic Activity" bill currently before Parliament provides for the extension of the Project Certificate to Ile de France (Paris region) and that of the Single Permit to the rest of France. It provides for a three-year trial period starting from the promulgation of the bill which, should it be passed in full, would extend the trial period by at least a further year.

A progress report is planned for the end of the first year and will be published in due course.

Procedures surrounding the setup of industrial, energy and agricultural projects are thereby being simplified and consolidated in certain parts of France, and look set to be rolled out nationwide in the near future.



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.

To fulfil this aim, social dialogue has been enhanced so as to:

- Overhaul the legal framework: several *conférences sociales* (government round tables with trade unions and employer federations) have taken steps for the future, following agreement between the respective organizations. Extensive consultation now underpins developments in French employment law and is the preferred method for updating legislation.
For example: The Employment Act of June 14, 2013 (*loi de sécurisation de l'emploi*), negotiated with employee and employer representatives, introduced a number of new provisions: employee mobility; anticipating change; career security; revised rules for collective dismissals on economic grounds with better defined procedures and time limits; and a focus on developing the use of mediation to resolve disputes.
- Give companies scope to adapt employment rules to their business: companies are the preferred venue for employment regulations to be defined with a view to achieving greater flexibility and boosting employment.

This shift towards greater labor market flexibility is being complemented by measures seeking to reduce labor costs, not only for low earners (no employer social security contributions payable to URSSAF) and middle-income earners (competitiveness and employment tax credit), but also for researchers (research tax credit and “innovative new company” status). The hiring of young and senior jobseekers is also being encouraged through initiatives such as apprenticeships and intergenerational contracts.

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. Contractual clauses can provide for greater flexibility in employment relationships, provided they are not contrary to the French Labor Code or to any collective agreement applying to the employer.

Permanent contract (*contrat à durée indéterminée* – CDI)

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.

Remuneration

- The statutory national minimum wage (SMIC), set on January 1 every year, is €9.61 gross per hour as of 2015. This amounts to €1,457.52 per month for a 35-hour work week, or €1,665.73 per month for a 39-hour work week including a 25% increase for overtime hours (between 35 and 39 hours).
- 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.

The probationary period under permanent contracts depends on the employment status of the employee:

- 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.

Reasons for fixed-term contracts

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 (see "Reasons for fixed-term contracts" above).

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

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 (*conventions collectives / collective agreements*)

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
Apprenticeship contract (<i>Contrat de l'apprentissage</i>)	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.	Contract length: - 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. Salary: 25-78% of the statutory national minimum wage (SMIC) depending on the apprentice's age and stage of the training cycle. Aid: Annual regional grant of €1,000 or more for companies with fewer than 11 employees, tax credit of €1,600 or €2,200 per apprentice, partial exemption from employer social security contributions.
Professional training contract (<i>Contrat de professionnalisation</i>)	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.	Contract length: Permanent or fixed-term. Salary: 55-100% of the statutory national minimum wage (SMIC) depending on the candidate's age and qualifications. Aid: 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.
Intergenerational contract (<i>Contrat de génération</i>) ¹	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.	Companies with fewer than 300 employees: €4,000 to €8,000 grant per year, for three years.

¹ 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.

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.
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 Chapter 5 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).

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.

Simple changes to working conditions

In these cases, 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.

I.2 - 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"

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 (URSSAF in the Bas-Rhin *département*), 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

I.3 - 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

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.

I.4. 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:

- Financial difficulties.
- Technological changes.
- Restructuring to protect the company's competitiveness.
- Closure of the business.

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.

Since the Employment Act of June 14, 2013 came into force, 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.

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.

IN DETAIL

JOB SECURITY AGREEMENTS

The Employment Act of June 14, 2013 offers alternative solutions to layoffs on economic grounds, including job security agreements.

In a particularly difficult economic context, an employer may temporarily adjust employee working hours and pay for a two-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).

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

RESOLVING DISPUTES RAPIDLY THROUGH MEDIATION

To encourage parties to settle disputes quickly, they are obliged to enter into mediation prior to employment tribunal proceedings.

For disputes concerning layoffs, all agreements through mediation involve the payment of a fixed severance pay to employees, which since 2013 has been set as follows:

SEVERANCE PAY FOLLOWING MEDIATION

Employee years of service	Severance pay
Less than 2 years	2 months' salary
2-8 years	4 months' salary
8-15 years	8 months' salary
15-25 years	10 months' salary
More than 25 years	14 months' salary

1.5 - 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.

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).

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.

If the company has fewer than 200 employees, the employer may decide, after consultation with employee representatives, to opt for a single employee representation delegation which combines employee and works council representatives in the same elected body.

- 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.

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.

For your business

	Social security contributions	Tax
Mandatory profit sharing (<i>participation</i>)	<ul style="list-style-type: none"> • Exempt from social security contributions. • Fixed 20% social security contribution. 	<ul style="list-style-type: none"> • Exempt from deductions to finance apprenticeships, training and housing. • Sums allocated to the special <i>participation</i> reserve fund deducted from taxable profits.
Voluntary profit sharing (<i>intéressement</i>)	<ul style="list-style-type: none"> • Exempt from social security contributions. • Fixed 20% social security contribution. 	<ul style="list-style-type: none"> • Sums allocated deducted from taxable income. • Exempt from deductions to finance apprenticeships, training and housing. • Companies with fewer than 50 employees which conclude a profit-sharing agreement of this sort before December 31, 2014 will receive a tax credit amounting to 30% of the sums paid to employees, up to €200,000 over three years.

For your employees

	Social security contributions	Tax
Mandatory profit sharing (<i>participation</i>)	<ul style="list-style-type: none"> • Exempt from social security contributions. • Subject to CSG and CRDS deductions. • Additional social security deductions (6.80%). 	<ul style="list-style-type: none"> • Not taxable (except interest on frozen accounts received annually and not reinvested).
Voluntary profit sharing (<i>intéressement</i>)	<ul style="list-style-type: none"> • Exempt from social security contributions. • Subject to CSG and CRDS deductions. 	<ul style="list-style-type: none"> • 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.

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*)

25% pay increase for the first eight hours and then 50% thereafter. A collective agreement may provide for a lower rate, but it may not be less than 10%.

The payment of overtime can 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) where the statutory 35-hour work week is not counted conventionally:

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 ¹	Large companies ¹
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 ²	Not applicable	Rate provided for in collective agreement for the business or sector (10% minimum) or 25% from the 36 th to the 43 rd 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)¹	• ²	•

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, and in certain other highly popular tourist areas.
- 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 five 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
Principle	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

The system is backed up by 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 rate¹
Medical fees:	
Practitioner consultation fees (doctors, dentists, midwives)	70%
Other consultation fees: nurses, physical therapists, speech therapists, ophthalmologists, podiatrists	60%
Long-term illnesses, including pharmaceutical products, treatments and hospitalization	100%
Laboratory examinations and tests	60% – 100%
Medication	15% – 100%
Other medical expenses	
Optical	60%
Bandages, supplies, small devices	60%
Orthopedics	60%
Hospitalization (to a hospital or certified private clinic)	
Hospitalization costs	80%
Transfer from one hospital facility to another	100%
Maternity	
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 6% of payroll, excluding salaries higher than 2.5 times the statutory national minimum wage (€3,643.79 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%.

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.

LABOR MARKET FLEXIBILITY: PRO-BUSINESS, PRO-EMPLOYMENT

Through a variety of provisions affecting all stages of the employment contract from start to finish, the French Labor Code provides for company resources to be adapted in response to changing needs and fluctuations in the business cycle.

Matteo Rossi
PARTNER

ROSSI E ASSOCIATI

Rossi e Associati – based in Milan and Paris – is a law firm comprising 22 members, supporting clients across a range of legal fields (corporate and M&A, contract law, banking law, bankruptcy law and energy law), providing legal advice both in extrajudicial contexts as well as domestic and international litigation and arbitration.

ENTERING INTO EMPLOYMENT CONTRACTS

The standard employment contract in France is a permanent contract (*contrat à durée indéterminée* – CDI). By exception, the employer may also draw up a fixed-term contract (*contrat à durée déterminée* – CDD) or a temporary contract (*travail temporaire* – TT) to cover the execution of a specific, temporary task.

Fixed-term contracts are reserved for cases stipulated by law, including a temporary increase in business. Lasting up to 18 months, and renewable once, fixed-term contracts are characterized by the fact that they end on a date specified in the contract, or by the occurrence of an event or completion of a task.

Temporary contracts allow employers to use a temporary employment agency that contractually provides them with temporary employees, who are hired and paid on this basis.

Entering into any employment contract may be subject to a **probationary period**. During this time, which for permanent contracts may last from two to four months, renewable once, the contract can be terminated at any moment without having to provide severance pay.

FULFILLING THE EMPLOYMENT CONTRACT

Statutory working hours in France are 35 hours per week for all companies.

Employers may however provide for a shorter or longer working week by requiring employees to work **overtime**

(*heures supplémentaires* – HS). Employers may also reduce the number of hours to be worked. Their employees are required to adhere to the hours they are given, and their refusal to do so without good reason may constitute serious grounds to terminate their contract.

Overtime hours are limited by an annual quota and must be paid, unless otherwise agreed, at the normal hourly rate plus 25% for the first eight hours of overtime and 50% for each hour thereafter.

If a company's business fluctuates irregularly, **working hours can be adapted to suit**. A collective agreement may allocate working hours over a period of at least a week but no longer than a year, and provide for remuneration to be spread evenly over this period. In the absence of a collective agreement, employers may arrange working hours as working periods of up to four weeks. These arrangements do not normally require employee consent. Upon approval by the authorities, employers may temporarily reduce collective working hours by making arrangements for **short-time working** (*activité partielle*) when confronted with a temporary fall in demand caused, for example, by adverse economic conditions, or the need to restructure the company. Employees receive a short-time working allowance paid by the employer who can, in turn, receive short-time working benefit.

During fulfilment of the employment contract, employers may wish to change their employee's working conditions.

Any modification to the employment contract that affects one or more of its essential elements (pay, working hours,

etc.) requires unambiguous employee consent. However, when such modifications represent a mere change in working conditions, employees are obliged to accept the measures decided upon by their employer.

Various collective agreements can also be implemented:

- **Working hours reduction agreements**, which cover collective working hours and affect all employees, where the amount of previous earnings is maintained.
- **Internal mobility agreements**, which allow employers to anticipate economic changes affecting the company by negotiating professional or geographical employee mobility.
- **Job security agreements**, which allow companies facing serious short-term economic difficulties to adjust pay, working hours and the way working hours are allocated for up to two years. In return, the employees must continue to be employed in the company for the duration of the agreement.

CONTRACT TERMINATION

One of the ways in which a permanent contract can be terminated is by **ratified mutual consent**. The employer and employee may agree to terminate the contract amicably by entering into a joint agreement, subject to its ratification by the authorities for statutory compliance. Such agreements can be freely negotiated and provide for all termination conditions, including severance pay.

RECENT REFORMS TO LOWER LABOR COSTS

France's economic policy strategy over the last few years has been to support competitiveness and job creation in French businesses.

Marie-Hélène Volpe
AUDITOR

CADERAS MARTIN SA

Caderas Martin is an independent French firm founded in 1978 providing chartered accountancy and consulting services in a number of financial fields, including statutory auditing, human resources and payroll management consulting. It has more than 90 staff members including 14 partners. The firm provides services to a very diverse set of businesses and stakeholders in the public and private sectors, both in France and internationally.

A number of reforms have been introduced to this end with a view to reducing the cost of employing low earners, thereby helping companies to compete internationally. The two main measures have involved:

- Across-the-board reductions in employer social security contributions first introduced in 1993 and increased a number of times since, up until 2014.
- The introduction in 2013 of the competitiveness and employment tax credit (*crédit d'impôt pour la compétitivité et l'emploi* – CICE).

Across-the-board reductions in employer contributions for low earners (also known as the "Fillon reduction") and the CICE have greatly reduced labor costs in France. Without these reductions, total employer social security contributions in 2015 would be close to nearly 42% of

Simulation as of January 1, 2014 | Simulation as of January 1, 2015

Companies with fewer than 20 employees

	1 x SMIC	1.5 x SMIC	2.4 x SMIC	2.7 x SMIC	1 x SMIC	1.5 x SMIC	2.4 x SMIC	2.7 x SMIC
Gross salary	1,445.41	2,168.15	3,469.00	3,903.00	1,457.55	2,186.00	3,498.00	3,936.00
Employer social security contributions	41.66%	41.66%	41.57%	41.47%	39.55%	39.55%	41.31%	41.27%
"Fillon reduction"	-28.10%	-3.12%	0.00%	0.00%	-27.95%	-3.11%	0.00%	0.00%
Competitiveness and employment tax credit (CICE)	-6.00%	-6.00%	-6.00%	0.00%	-6.00%	-6.00%	-6.00%	0.00%
Employer contributions post-reductions	7.56%	32.54%	35.57%	41.47%	-5.60%	30.44%	35.31%	41.27%
Total reductions	34.10%	9.12%	6.00%	0.00%	33.95%	9.11%	6.00%	0.00%

Companies with more than 20 employees

	1 x SMIC	1.5 x SMIC	2.4 x SMIC	2.7 x SMIC	1 x SMIC	1.5 x SMIC	2.4 x SMIC	2.7 x SMIC
Employer social security contributions	44.76%	44.76%	44.68%	44.59%	43.15%	43.15%	44.86%	44.76%
"Fillon reduction"	-26.00%	-2.89%	0.00%	0.00%	-28.35%	-3.16%	0.00%	0.00%
Competitiveness and employment tax credit (CICE)	-6.00%	-6.00%	-6.00%	0.00%	-6.00%	-6.00%	-6.00%	0.00%
Employer contributions post-reductions	12.76%	35.87%	38.68%	44.59%	8.79%	33.99%	38.86%	44.76%
Total reductions	32.00%	8.89%	6.00%	0.00%	34.35%	9.16%	6.00%	0.00%
* Contributions covering accidents at work	1.20%	1.20%	1.20%	1.20%	1.20%	1.20%	1.20%	1.20%

(These simulations do not include mutual health and life insurance contributions)

gross pay in companies with more than 20 employees (excluding health and life insurance contributions), i.e. 29% in social security contributions and 13% in social insurance contributions (covering unemployment benefits, supplemental retirement schemes, etc.).

COMPETITIVENESS AND EMPLOYMENT TAX CREDIT

In addition to the overall reductions described above, a competitiveness and employment tax credit (CICE) was introduced in 2013, amounting to 4% of payroll costs for employees earning up to 2.5 times the statutory national minimum wage (SMIC) in 2013, rising to 6% of payroll costs from January 1, 2014.

The CICE has a very wide scope; it is open to all companies with employees subject to taxation on their earnings (income tax or corporate tax), regardless of the form of the company (sole proprietorships and independent companies, corporations, private companies) or its business sector (agricultural and farming, crafts, wholesale and retail trade, industry or services).

GREATER OVERALL REDUCTIONS FROM 2015 WITH THE "RESPONSIBILITY PACT"

France reduced labor costs for the first time in the early 1990s through an exemption of employer social security contributions on low earners. Today, the "Responsibility and Solidarity Pact" that became law through the French Government Amended Social Security Budget Act for 2014 is further reducing the cost of employing low earners. Two provisions came into force on January 1, 2015:

- A reduction in employer family benefit contribution rates by 1.8 percentage points for employees earning up to 1.6 times the SMIC, with the rate dropping from 5.25% to 3.45%.

- A further reduction in overall contributions, enabling companies to be exempted from all employer social security contributions payable to URSSAF on behalf of employees earning the SMIC (excluding up to one percentage point to cover the risk of work accidents), as well as from the solidarity contribution for autonomy and payments to the National Housing Aid Fund (FNAL). The maximum exemption rate granted under the new sliding scale reduction in employer contributions in 2015 will be 28.35 percentage points in companies with 20 or more employees. These companies will also benefit from a sliding scale reduction taking into account the level of their FNAL contributions (0.5%).

For companies with fewer than 20 employees, the maximum exemption will be 27.95 percentage points. Reductions are on a sliding scale up to 1.6 times the SMIC. In 2014, the exemption rate for low earners was 26% or 28.1% for minimum-wage earners (depending on whether the company had more or fewer than 20 employees).

By including the six percentage points of the CICE as well as the "Fillon reduction", on January 1, 2015 the total reduction in labor costs for minimum-wage earners was 33.95 percentage points for companies with fewer than 20 employees, and 34.35 percentage points for companies with more than 20 employees.

These simulations do not include mutual health and life insurance contributions that may vary from one company to another.

In order to finance the reduction in employer social security contributions, measures are being taken to reduce budgets and freeze a number of social security benefits.





INTERNATIONAL MOBILITY FOR FOREIGN COMPANY DIRECTORS AND EMPLOYEES

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INTERNATIONAL MOBILITY FOR FOREIGN COMPANY DIRECTORS AND EMPLOYEES

A variety of international mobility schemes exist in France, with a view to attracting highly skilled employees and facilitating intra-group transfers.

Multi-year residence permits have also been introduced, providing foreign nationals and their families with a complete legal framework.

Companies in France can offer their employees optimal working conditions thanks to a comprehensive social security system and an array of extensive bilateral social security agreements, while the costs of sending employees to work in France can be offset through an attractive expatriate tax system.

As part of moves to continue simplifying procedures, medical examinations have been abolished for internationally transferred company directors and employees, while the introduction of talent passports scheduled for 2016 will ensure that recipients receive the smoothest possible reception. The main consideration for companies posting or sending employees to work in France is to anticipate all the necessary administrative procedures and employment law implications. It is their responsibility to choose the most appropriate immigration status, the most efficient social security coverage, and the most advantageous tax system.

IN DETAIL

PRINCIPLE OF FREE MOVEMENT FOR EUROPEAN UNION AND EUROPEAN ECONOMIC AREA NATIONALS: NO VISA OR WORK PERMIT

EU, EEA and Swiss nationals are free to travel and work in France without a visa, residence permit or work permit. They must simply register with the *mairie* (municipal offices) of their *commune* within three months of their arrival.

Following the admission of Croatia to the EU on July 1, 2013, only Croatian nationals are subject to specific rules until July 1, 2015. During this time, Croatian nationals must obtain a work permit for any work performed as an employee. There are no restrictions on them finding work in one of the 291 sectors listed by the Ministerial Order of October 1, 2012. With the exception of regulated professions, commercial and industrial professions are not subject to any restrictions.

I - ADMISSION AND RESIDENCE CONDITIONS FOR FOREIGN NATIONALS IN FRANCE

Unless special dispensation is granted, admission to and residence in France requires a visa. The category of visa is primarily determined by the duration and reason for residence. The main visa categories for international transfers are the short-stay visa (up to 90 days) and the long-stay visa (more than 90 days).

I.1 - SHORT-STAY VISA

The short-stay visa is commonly referred to as the "Schengen visa" because it enables the holder to travel throughout the 26 States of the Schengen area (EU and EEA Member States, with the exception of Bulgaria, Romania, Cyprus, Croatia, Ireland and the United Kingdom). This visa can be issued for a maximum of 90 days per 180-day period. A request must be filed with the embassy or consulate of France in the country of residence. This visa is primarily intended for travelers on business, official visits and personal visits.

Business people wishing to conduct business relations in France without actually residing in the country may request a circulation visa. The circulation visa is a specific Schengen visa issued for a total period of one to five years, thereby saving holders with legitimate business activities in France from having to apply for a new visa each time they travel.

The short-stay visa does not authorize the holder to engage in paid employment in France, for which a work permit must be obtained. As such, when a company wishes to send or receive an employee in France for an assignment of less than three months, the reason for the stay must be specified:

- **If the employee is traveling to France on a business trip** to attend an occasional meeting or to meet clients, a short-stay visa is sufficient, unless special dispensation is granted (based on nationality).
- **If the employee is on a short-term assignment** to train, advise, or provide technical assistance to a company in France, a temporary work permit (*autorisation provisoire de travail*) is required as well as the visa.

The deciding factor is whether the employee provides a service and/or effectively participates in the host company and/or is working as a subordinate for the host company.

IN DETAIL

APPLYING FOR A WORK PERMIT FOR A SHORT-TERM STAY IN FRANCE

The originating company sends a completed temporary work permit application to 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) at least three weeks before the arrival of the foreign employee to obtain a temporary work permit. The temporary work permit is valid for up to 90 days; the short-stay visa cannot be renewed and the company must ensure that the validity periods for the work permit and the visa correspond.

For foreign companies that regularly post employees to their subsidiaries in France for assignments shorter than 90 days, a government memorandum on November 12, 2010 allows them to apply for an annual work permit. Employees can use this work permit to obtain a multiple-entry short-term visa from their local consulate which is valid for 12 months. The visa and the work permit authorize three-month stays in France in every six-month period to conduct business-related activities. This simpler process means companies no longer have to apply for work permits and visas several times a year on behalf of employees who need to make frequent trips to a subsidiary in France.

I.2 - LONG-STAY VISA

Foreign nationals who wish to stay in France longer than 90 days for personal reasons (family reunion, retirement, etc.) or professional reasons (to set up a company, or engage in paid employment, etc.) must submit an application for a long-stay visa to the French consular authorities in their country of residence.

The long-stay visa is in principle valid for a three-month period, during which the visa holder must go to the *Préfecture* to complete the administrative formalities to obtain the residence permit corresponding to the reason for the stay: "Employee on Assignment", "Research Scientist", "Skills and Expertise", etc.

Some categories of foreign nationals are issued a long-stay visa equivalent to a residence permit (*visa long séjour valant titre de séjour*), which is valid for three to 12 months and does not require the holder to apply at the *Préfecture* for a residence permit for the first year.

This simplified procedure is available to students, research scientists, interns, and employees with a work contract at a company based in France and employees whose foreign-based company has temporarily posted them to work in France for a period of three to twelve months (except for intra-group transfers).

Within three months of arriving in France, foreign nationals are summoned by the French Immigration and Citizenship Office (OFII) to pass a medical examination.

II - PAID EMPLOYMENT IN FRANCE

Immigration procedures depend on the type of activity being conducted by the foreign national. In this respect, a distinction should be made between a salaried employee and a company director, which each have to follow a different procedure to obtain specific residence permits. The exception to the rule is that some residence permits allow any type of employment to be undertaken on French soil (salaried or commercial employment) without any specific formalities: these are the "Private and Family Life" temporary residence permit and the standard residence permit.

II.1 - A FOREIGN COMPANY DIRECTOR'S STATUS WHEN CONDUCTING A COMMERCIAL OR INDUSTRIAL ACTIVITY

Company directors comprise independent business people (*commerçants*), self-employed entrepreneurs (*artisans*), or persons holding the authority to make company decisions. The latter

category specifically concerns the director of a *société à responsabilité limitée* (SARL – limited liability company), the CEO of a *société anonyme* (SA – public limited company), or the individual (*personne physique*) with the authority to direct a foreign company in France (representative of a branch or a liaison office).

Setting up a company in France does not require any specific formalities to be undertaken by nationals from EU Member States or those from Iceland, Lichtenstein, Norway and Switzerland.

Similarly, nationals from countries other than EU or EEA Member States who direct a company in France but do not intend to live there are subject to the same rules as those that apply to French and European nationals. They must register with the Company Register (*Registre du commerce et des sociétés* – RCS) or Trade Register (*Répertoire des métiers*) by submitting the supporting documents required for their specific type of company. They must also comply with the rules governing short-stay visas (cf. point 1.1).

For foreign company directors wishing to relocate to France, there are two main categories of residence permits, depending on the scope of their business project.

“Skills and Expertise” residence permit

Foreign nationals wishing to set up or take over an existing company in France may obtain a “Skills and Expertise” residence permit, which is valid for three years on a renewable basis. In this case, the director must present a project for starting up or taking over a company that meets one of the following criteria:

- Investment of at least €300,000 (tangible and intangible fixed assets).
- Creation of at least two jobs.
- Creation of a subsidiary whose parent company has existed for at least two years.

Foreign nationals who are named as the legal representative of an existing company in France can also apply for a “Skills and Expertise” residence permit if their salary is equal to at least three times the statutory national minimum wage (SMIC), i.e. €4,372.56 gross per month as of January 1, 2015.

If the conditions for issuing a “Skills and Expertise” residence permit are not met, they can apply for a “Business Activity” visa, which is valid for one year on a renewable basis.

Where an application for a “Skills and Expertise” residence permit is made abroad, the consulate where the applicant currently resides has the authority to process the application and decide whether to issue the permit. In cases where foreign nationals already residing in France currently hold a residence permit that does not enable them to conduct commercial or industrial activity, they can apply for a change of status at the

Préfecture of their place of residence. Documentation required includes an excerpt of their police record or similar from their country of origin, so arrangements should be made in the home country to obtain this crucial document.

Family members of a “Skills and Expertise” residence permit holder are automatically granted a three-year “Private and Family life” residence permit, which enables them to seek any kind of paid employment.

“Exceptional Economic Contribution” residence permit

A foreign national who wishes to make an investment in France of over €10 million, or plans to create or save at least 50 jobs, can apply for an “Exceptional Economic Contribution” residence permit, valid for a 10-year period (on a renewable basis). The Prefect where the investment is planned is authorized to review the application.

The Prefect may decide to issue this residence permit even if these numbers are not yet reached if they consider that the applicant’s economic contribution is exceptional due to specific aspects or conditions in the local job market.

Spouses are also granted a 10-year residence permit.

II.2 - TEMPORARY RESIDENCE PERMITS AUTHORIZING SALARIED EMPLOYMENT

In principle, a work permit is required to engage in salaried employment in France.

If a foreign national plans to stay in France longer than 90 days, the competent authorities issue them a single permit that is valid for both residency and work in France.

Specifically, this applies to the “European Union Blue Card”, “Employee on Assignment” and “Skills and Expertise” residence permits, as well as the “Employee” and “Student” long-stay visas equivalent to a residence permit.

“European Union Blue Card”

This is a residence permit for highly skilled employees who meet the following eligibility criteria:

- Hold a degree certifying at least three years of higher education or have at least five years of professional experience.
- Possess an employment contract lasting at least one year.
- Earn a salary worth at least 1.5 times the average gross salary (i.e. €52,750 gross per year in 2015).

Employment levels have no bearing on the award of this new residence permit, so employers are not required to justify the hiring decision with reference to the local job market, nor are holders obliged to undergo a medical examination.

Once the procedure is complete, the employee receives a

renewable three-year residence permit and their family members are given a “Private and Family Life” temporary residence permit valid for the same period. After 18 months, holders of a “European Union Blue Card” issued by a Member State can apply for a similar permit to secure a highly skilled position in another EU country.

“Employee on Assignment” temporary residence permit

This three-year residence permit (renewable subject to certain conditions) is specifically reserved for intra-group transfers. It can be issued either:

- for a posting (the initial work contract remains in force and the employee is paid by the originating company); or
- for an expatriation (the initial work contract is suspended for the duration of the assignment in France and a new work contract is signed with the company in France, which pays the employee).

The following conditions must be met to receive this permit: the work contract must have been valid for at least three months; the posting or expatriation must be to a company in the same group or an organization belonging to the same company; gross monthly salary must be equal to at least 1.5 times the statutory national minimum wage (SMIC), i.e. €2,186.28 as of January 1, 2015.

Employment levels will not determine whether or not holders of temporary “Employee on Assignment” residence permits can be employed. As such, the employer is not obliged to justify the hiring decision with reference to the local job market.

If the “Employee on Assignment” permit holder resides in France continuously for more than six months, family members can apply for the “Private and Family life” temporary residence permit that is valid for three years and automatically enables family members to seek paid employment.

Main long-stay visas equivalent to residence permits authorizing paid employment

For the holders of long-stay visas equivalent to a residence permit, which are valid for up to one year, no residence permit is necessary for the first year of residence in France. After the first year, foreign nationals must apply for the residence permit applicable to their situation. The following types of long-stay visas equivalent to a residence permit are available:

- **The long-stay visa equivalent to an “Employee” residence permit** is issued to foreign nationals who are hired by a company located in France for a period of one year or more. A work permit application must be filed with the local employment authorities (*Unité territoriale* at the DIRECCTE) where the work is to be performed, and employment levels will have a bearing on the granting of permits. Holders of this

type of residence permit must sign an integration contract (*contrat d'accueil et d'intégration* – CAI). This contract is a means by which the French government provides foreign nationals with access to individual rights and French language training.

- **The long-stay visa equivalent to a “Temporary Worker” residence permit** is issued to employees admitted to work in France for a period of three to 12 months. This applies specifically to employees posted by a foreign company to provide a particular service at a client company in France. A work permit application must be filed with the local employment authorities (*Unité territoriale* at the DIRECCTE) where the work is to be performed, and employment levels may have a bearing on the granting of permits in certain cases.

- **The long-stay visa equivalent to a “Research Scientist” residence permit** is issued to foreign nationals conducting research or teaching at a university level. The applicant must possess a hosting agreement issued by a scientific organization or an approved university, certifying their status of scientist and the purpose and length of their stay. Research scientists are exempt from obtaining a separate work permit.

The hosting agreement must be stamped by the French consular authorities in the applicant’s home country.

After the first year in France, the applicant receives a “Research Scientist” temporary residence permit, valid for one to four years. The scientist’s family members receive a “Private and Family Life” temporary residence permit.

- **The long-stay visa equivalent to a “Student” residence permit** is issued to foreign nationals studying in France who can prove that they are financially self-sufficient (€615 per month). At the end of the first year, for students who continue their studies, the *Préfecture* will issue a multi-year residence permit, valid for up to four years, covering the remainder of the student’s academic cycle. Foreign nationals with “Student” status are entitled to engage in **secondary paid employment for up to 60% of the legal working year**. No work permit is required but the employer must file a declaration with the *Préfecture* where the student resides.

Furthermore, a student who has a qualification at least equivalent to a Master’s degree can apply for a **temporary residence permit**, valid for 12 months (non-renewable) after their “Student” residence permit has expired. This document enables the holder to seek and perform work related to their training in return for a gross monthly salary of at least 1.5 times the statutory national minimum wage (SMIC) i.e. €2,186.28 as of January 1, 2015.

At the end of this period, and providing they can prove that they are working, they can apply for a change of status through the *Préfecture* to obtain an “Employee” residence permit. Employment levels will not be taken into account provided that the job is commensurate to the employee’s training and the gross monthly salary paid is at least 1.5 times the SMIC.

INTERNATIONAL MOBILITY

for foreign company directors and skilled employees (Non-EU/EEA/Switzerland)

Status/position	Visa and residence permit issued	Maximum period of residence in France	Eligibility criteria
Company director "Exceptional Economic Contribution"	Long- or short-stay visa + "Exceptional Economic Contribution" residence permit	Permanent residence permit: 10 years, renewable	<ul style="list-style-type: none"> • Must run the company or hold an interest of at least 30%. • Must invest at least €10 million. • Or must create or maintain at least 50 jobs.
Company director residing in France	Long-stay visa + "Skills and Expertise" residence permit	Three years, renewable	<ul style="list-style-type: none"> • Must create and run a company, certain conditions apply (intra-group transfer or creation of two jobs or investment of at least €300,000). • Must be an existing appointed paid company director. • Must be the representative of the branch or liaison office.
Company director residing in France (ineligible for a "Skills and Expertise" permit)	Long-stay visa + "Business Activity" residence permit	One year, renewable	<ul style="list-style-type: none"> • Must create and run a commercial or industrial business. • Must be an appointed company director (Director of a limited liability company, Chairman of simplified limited company, etc.). • Must be the representative of the branch or liaison office.
Company director not residing in France	Schengen short-stay "Business Trip" visa. Option to obtain a circulation visa.	90 days maximum per 180-day period	<ul style="list-style-type: none"> • Must be the company's legal representative.
Employee on intra-group transfer	Long-stay visa + "Employee on Assignment" residence permit	Three years, renewable	<ul style="list-style-type: none"> • Must be on a posting or expatriation within same business group. • Must be paid gross monthly salary of at least 1.5 times the statutory national minimum wage (SMIC). • Work contract must be valid for at least three months.
Highly skilled employee (Intra-European transfer)	Long-stay visa + "European Union Blue Card" residence permit	Three years, renewable	<ul style="list-style-type: none"> • Must hold a degree certifying at least three years of higher education or have at least five years of professional experience. • Must have an employment contract lasting at least one year. • Must earn a salary worth at least 1.5 times the average gross salary (€52,750 gross per year in 2014).
Employee (posting < three months)	Short-stay visa + temporary work permit	90 days maximum	<ul style="list-style-type: none"> • Must be a salaried employee of the foreign company prior to the posting. • Must be posted for an assignment on the foreign company's behalf or to provide a service with a company based in France.
Employee from outside group (posting > three months)	Long-stay visa equivalent to a "Temporary Worker" residence permit	Depends on length of assignment: three to 12 months, renewable subject to certain restrictions.	<ul style="list-style-type: none"> • Must be a salaried employee of the foreign company prior to the posting. • Must be posted for an assignment on the foreign company's behalf or to provide a service with a company based in France.

EU: European Union - 28 countries

EEA: European Economic Area - EU + Iceland, Liechtenstein and Norway - 31 countries

Schengen Area: 26 countries

Local employment authorities (Unités territoriales): foreign labor department of the Regional Directorate for Enterprise, Competition, Consumption and Employment

(Direction régionale des entreprises, de la concurrence, de la consommation du travail et de l'emploi - DIRECCTE).

OFIL: French Immigration and Citizenship Office (Office français de l'immigration et de l'intégration) which serves as 'one-stop shop' for work permit applications in eight départements

(Paris, Hauts de Seine, Yvelines, Rhône, Haute-Garonne, Isère, Nord, and Puy de Dôme) for "Employee on Assignment" and "European Union Blue Card" applicants.

Application filing	Requirement to obtain work permit	Accompanying family
At the <i>Préfecture</i> local to the planned investment site.	N/A.	Yes. Spouse receives 10-year residence permit.
Initial application: at the consulate in the applicant's country of residence. To change status: at the <i>Préfecture</i> local to the applicant's place of residence.	N/A. The applicant is a company director who does not have the status of employee as defined by French employment law.	Yes. "Private and Family Life" residence permit issued for three years (renewable). The spouse can freely seek employment.
Initial application: at the consulate in the applicant's country of residence. To change status: at the <i>Préfecture</i> local to the applicant's place of residence.	N/A. The applicant is a company director who does not have the status of employee as defined by French employment law.	Yes. "Visitor" residence permit issued. The spouse must obtain a work permit to seek paid employment.
Consulate in the applicant's country of residence.	N/A. The applicant is a company director who does not have the status of employee as defined by French employment law.	No.
Local employment authorities (<i>Unité territoriale</i> at the DIRECCTE) relative to where the work is to be performed in France: the employment authorities issue the work permit and send the file to the consulate (through the OFII). or: OFII 'One-stop shop' for work permit applications in the <i>départements</i> concerned. The employer forwards all documentation to the OFII which acts as a single point of contact between the <i>Unité territoriale</i> , the company and the consulate. Consulate: issues long-stay visa (filed at same time)	Yes. The employer sends the application file to the local employment authorities, which review the application within 10 days.	Yes. "Visitor" permit if residence is less than six months. Three-year "Family and Private Life" permit if residence is for more than six months.
Local employment authorities (<i>Unité territoriale</i> at the DIRECCTE) relative to where the work is to be performed in France: the employment authorities issue the work permit and send the file to the consulate (through the OFII). or: OFII 'One-stop shop' for work permit applications in the <i>départements</i> concerned. The employer forwards all documentation to the OFII which acts as a single point of contact between the <i>Unité territoriale</i> , the company and the consulate. Consulate: issues long-stay visa (filed at same time)	Yes.	Yes. "Private and Family Life" permit for same duration as holder of the "European Union Blue Card".
Local employment authorities (<i>Unité territoriale</i> at the DIRECCTE): issue work permit Consulate: issues short-stay visa	Yes. The employer sends the application file to the local employment authorities.	No
Local employment authorities (<i>Unité territoriale</i> at the DIRECCTE): issue work permit. The employment authorities send the file to the OFII, which forwards it to the consulate. Consulate: issues long-stay visa.	Yes. The employer sends the application file to the local employment authorities.	No. May apply for a "Visitor" visa.

II.3 - ADMISSION PROCEDURE

Once a company has defined the appropriate immigration status for its employee, it must then contact the foreign labor department at the local employment authorities (*Unité territoriale* at the DIRECCTE) to initiate the admission procedure. Before a work permit is awarded, the admission procedure verifies the enforcement of French employment laws, particularly regarding legislation on working hours, social security contribution payments (in the absence of social security agreements or conventions) and equal opportunities.

Employers are responsible for submitting the work permit application, whether they are based in France or any other country. Out of concern for efficiency, companies should ensure they apply at least two months before the employee takes up their position.

In a number of *départements* (Paris, Hauts de Seine, Yvelines, Rhône, Haute-Garonne, Isère, Nord, and Puy de Dôme), work permit applications prior to obtaining "Employee on Assignment" and "European Union Blue Card" residence permits must be sent to the French Office for Immigration and Citizenship (OFII), which then forwards them to the local employment authorities (*Unité territoriale* at the DIRECCTE).

Once in France, foreign nationals can begin work immediately and have up to three months in which to submit their application for a residence permit and attend a medical examination at the OFII. Holders of "Employee on Assignment" and "European Union Blue Card" residence permits are not required to undergo a medical examination.

The employer must pay the OFII a fee in accordance with the length of the employment contract and the employee's salary.

IN DETAIL

APPLYING FOR A WORK PERMIT

The application for a work permit is filed with the foreign labor department of the local employment authorities (*Unité territoriale* at the DIRECCTE).

The decision to issue a work permit is made by the local employment authorities once the application has been consulted.

CRITERIA FOR THE ISSUE OF A WORK PERMIT

When deciding whether to refuse or accept the work permit application, the local employment authorities assess the following criteria:

- Employment levels in the relevant sector and geographic area, taking into account the specificities of the position being offered and the employer's previous attempts to fill it by recruiting a job seeker, mostly with help from the local *Pôle Emploi* (National Employment Office).
- The appropriateness of the foreign applicant's qualifications and experience for the position being offered.
- The employer's adherence to French employment and social security legislation.
- The employee's adherence to any appropriate regulations concerning the profession in question.
- The employment conditions and remuneration must be similar to those provided to other employees in the company (or the profession) for a similar position.
- The salary must be at least equal to the statutory national minimum wage (SMIC).
- Any steps taken by the employer to ensure that the foreign national is able to find decent living accommodation.

EMPLOYMENT LEVELS

The authorities may refuse to issue a work permit if they consider that unemployment is too high for a particular sector or geographic area and that the employer has not already searched in the local labor market.

The employment situation is not an issue, however, for employees on an intra-group transfer ("Employee on Assignment" residence permit), holders of a "Skills and Expertise" or "European Blue Card" residence permit, or employees conducting a business activity in a sector in a geographic area experiencing recruitment issues and included in a list established by the authorities (cf. 30 sectors listed by the Ministerial Order of January 18, 2008).

APPLICATION FOR A WORK PERMIT

To be made by the employer at the local employment authorities (*Unité territoriale* at the DIRECCTE) relative to where the work is to be performed.

DOCUMENTS TO BE SUBMITTED

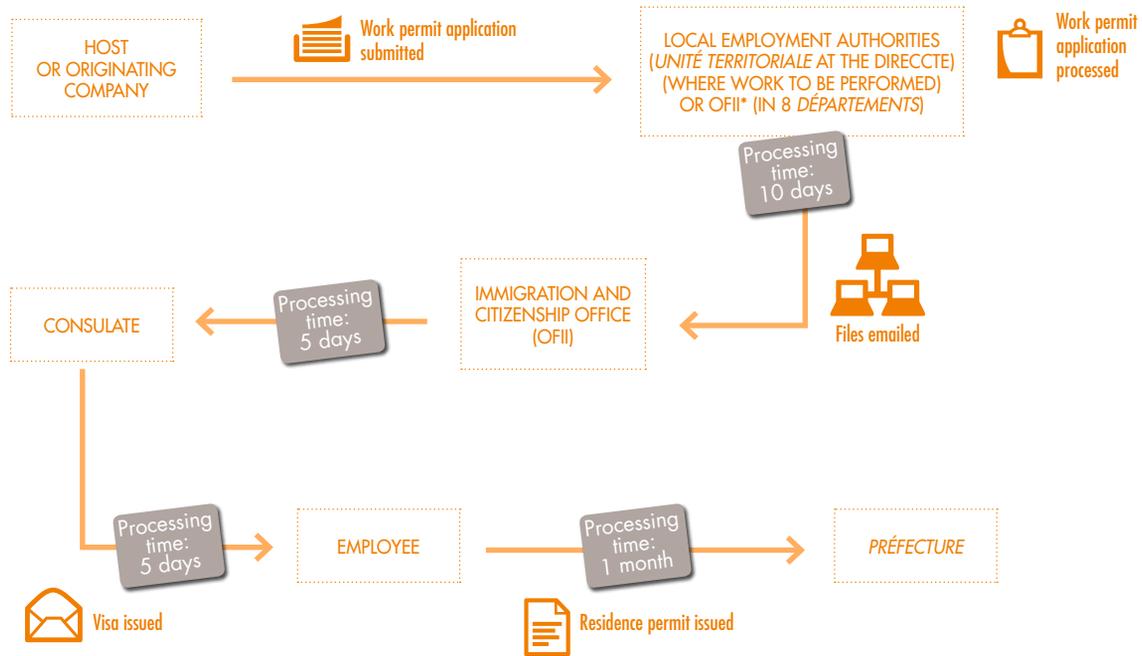
Several documents must be submitted with the work permit application (see "Compiling an admission file" below).

PROCESSING TIME

The decision is normally made by the local employment authorities (*Unité territoriale* at the DIRECCTE) within two months of the application being filed. For "Employee on Assignment" and "European Union Blue Card" applications this period is reduced to 10 days. If no reply is received within this time, the application is deemed to have been rejected.

IN DETAIL

ARRIVAL OF AN EMPLOYEE IN FRANCE



IN DETAIL

COMPILING AN ADMISSION FILE FOR A FOREIGN EMPLOYEE

Main documents to be submitted by the employer to the local employment authorities (*Unité territoriale* at the DIRECCTE) to support a work permit application for a salaried employee that the employer wishes to recruit or post to France:

1. Letter of motivation for the recruitment of the employee giving details of the employee's future position and responsibilities.
2. The relevant CERFA form that corresponds to the employment to be carried out in France.
3. A valid K-bis document if the employer is a corporate entity (*personne morale*); a valid K document (if the entity is an *entreprise individuelle*), a tradesperson's card or, failing this, a tax receipt if the employer is an individual (*personne physique*).
4. Documents proving the link between the company based in France and the company based abroad in the event of an intra-group transfer.
5. A copy of the employee's passport or national identity card if the employee is resident abroad.
6. The employee's curriculum vitae or any other document that shows the employee's qualifications and professional

experience; where applicable, a copy of the employee's educational diploma or certificate entitling the employee to carry out the employment in question; and in the event that the exercise of the employment is subject to specific regulatory conditions, proof that these conditions are properly fulfilled.

7. In the event of employment levels being an obstacle, documentary evidence of efforts made to recruit a candidate from the French labor market.

If the employer is based abroad, the application should also include the following documents:

8. An employment certificate from the company based abroad or initial employment contract, showing at least three months' service.
9. A posting (secondment) certificate or signed statement of the request for registration with the French social security system.
10. Where applicable, a signed statement of the request for registration with the paid leave fund.
11. Where applicable, a copy of the letter of mandate addressed to the person established in France in order to carry out administrative procedures on the employee's behalf.

II.4 - EMPLOYEES POSTED BY AN EMPLOYER RESIDING OUTSIDE FRANCE (TRANSNATIONAL POSTING)

Any foreign company, including those based in another EU Member State, may temporarily assign employees to France in order to provide services for a subcontracting contract or to conduct an operation independently without a service contract.

Posted employees remain under contract with the foreign company before, after and during the term of their posting in France.

By virtue of this regulation, posted employees are not employees of the client company, which does not pay their salary. They are subject to employment laws to the same extent as employees in the client company (working hours, minimum wages and payment of salaries, annual leave, health and safety conditions, etc.)

The foreign-based company, or its representative, begins the work permit application procedure at the local employment authorities (*Unité territoriale* at the DIRECCTE) where the work is to be performed. EU, EEA and Swiss nationals are not required to obtain a work permit or a visa.

If the posting is for a period of less than three months, in addition to the short-stay visa (unless special dispensation is granted) a **temporary work permit** (*autorisation provisoire de travail*) is required.

If the posting is for a period of more than three months, employees must hold a long-stay visa equivalent to a "Temporary Worker" residence permit.

If the assignment is for more than three months, the employer must pay the OFII a fee in accordance with the employee's salary.

Foreign companies must also make a **mandatory preliminary declaration** to the regional employment inspector in the location where the process is taking place.

The decree of March 30, 2015, pursuant to the Act of July 10, 2014, increases employers' obligations by stipulating the appointment of a company representative in France as well as the location and access to documentation pertaining to the provision of a service.

Foreign companies that do not have offices in France must register with URSSAF in the Bas-Rhin *département* (*Centre national des firmes étrangères* – CNFE – www.alsace.urssaf.fr) to enroll their employees and pay social security contributions (unless a special dispensation is granted through a social security agreement and a posting (secondment) certificate is obtained).

III - HEALTH COVER AND SOCIAL SECURITY BENEFITS FOR EMPLOYEES IN FRANCE

Employees may opt for continued coverage by the health and social security system in their country of origin if a reciprocal agreement exists between their home country and France.

In the absence of a reciprocal agreement, any salaried employee working in France, irrespective of their nationality, age or type of employment contract, must be registered with the French social security system (principle of territoriality).

III.1 - PRINCIPLE OF TERRITORIALITY: IN THE ABSENCE OF AN INTERNATIONAL AGREEMENT, SOCIAL SECURITY CONTRIBUTIONS ARE PAYABLE TO THE SOCIAL SECURITY SCHEMES IN THE COUNTRY OF EMPLOYMENT

The French social security system is based on the principle of territoriality: foreign employees working in France are, in principle, subject to French health cover and social security legislation, regardless of their nationality or the location of their employer. Foreign employees may however contribute to optional social security schemes in their home countries. As such, the salary and benefits (benefits in kind, expatriation bonuses, etc.) paid to foreign employees are subject to all social security contributions at current rates, payable to the mandatory and supplementary schemes. In return, employees and their families are covered by the French social security system.

In exceptional cases, an exemption may be possible from basic retirement insurance (without supplementary retirement benefits) for foreign employees who make a joint request with their employer based in France, or failing this with their host company in France. To become exempt, proof must be supplied of registration with an insurance scheme. The applicant must not have been registered with a mandatory French retirement scheme, or the social security scheme of a Member State bound by EU rules for coordinating social security systems, during the five years prior to the application. This exemption is granted for three years. It may be renewed for the same period.

III.2 - INTERNATIONAL AGREEMENTS AND EU REGULATIONS PROVIDE FOR EXEMPTIONS FROM FRENCH SOCIAL SECURITY CONTRIBUTIONS

Nationals of countries that have signed bilateral agreements with France may remain registered with the social security system of their country of origin during their posting in France.

The length of the posting is limited by a specific clause in the bilateral agreement, although it may be renewed. At the end of

this period, the posted national must register with the social security system of the host country (in this case, France). They can however continue to contribute to the social security system in their country of origin; this is called making dual contributions. In practice, the employee must supply proof of their registration in their country of origin to be able to benefit from the application of bilateral social security agreements.

Citizens of the European Union, European Economic Area and Switzerland may also be posted to other Member States for two-year periods by virtue of EU regulations.

An exemption may be requested in order to extend the term of the posting if the assignment is expected to exceed two years or run over the full two-year term. Each Member State determines the maximum posting term it agrees to grant.

At the end of this initial or extended period, the posted employee must register with the social security system of the country where the paid employment is carried out (in this case, France).

Useful link: <http://www.cleiss.fr/employeurs/index.php>

IV - TAX REGULATIONS FOR EMPLOYEES IN FRANCE

Under certain circumstances, employees who come to work in France benefit from a very generous tax system.

IV.1 - DETERMINING TAX RESIDENCY

Tax residency is not a matter of choice for the employer or the employee; it depends on legal or reciprocal agreements and treaties. Registration with the French social security system has no bearing on determining tax residency.

A person is considered to be resident in France for tax purposes if one of the following criteria is met:

- If France is the person's permanent place of residence (household), i.e. the habitual place of residence or that of their family (spouse and children).
- Where the person has dual permanent residence, if France is the center of their financial and personal interests.
- Where the person's center of interests cannot be determined, if their primary place of residence is in France (they reside in France for more than 183 days in the same year).
- In the absence of any other deciding criteria (primary place of residence or no place of residence in either country), if the person holds French nationality.
- In the event that the person has dual nationality or neither of the two nationalities, the matter is decided by mutual agreement of the tax authorities in the two countries.

Tax residents in France are taxed on the entirety of their income earned from French sources or from other sources, but are also subject to international tax treaties and certain special tax systems such as those for expatriates (cf. section 4.3).

If foreign sources of income are also taxed in the country of origin, double taxation is avoided by application of clauses written into a large number of bilateral tax treaties that France has signed with other countries.

IV.2 - INCOME TAX SYSTEM FOR TAX RESIDENTS

Income tax

Salaries (tax category "wages and salaries") are taxable once social security contributions and all other mandatory contributions and business expenses have been deducted. With regard to business expenses, tax residents can choose either a flat deduction of 10% or a deduction corresponding to their actual amount (subject to presentation of supporting documents).

A French resident's income is taxed at progressively higher rates:

2014 Income bracket (by allowance unit)	Tax rates in 2015
Income up to €9,690 inclusive:	0%
From €9,690 to €26,764 inclusive:	14%
From €26,764 to €71,754 inclusive:	30%
From €71,754 to €151,956 inclusive:	41%
More than €151,956:	45%

Income tax is calculated on the basis of the combined incomes of the household, which includes the resident, any spouse, and any dependent children. The effective tax rate is determined on the basis of the size of the household using the family allowance method, whereby the total household income is divided by the number of household units (one unit for each adult, one half-unit for each of the first two children, then one unit for each child thereafter).

Assuming income remains unchanged, the more dependents a household includes, the lower the tax rates it pays.

Other expenses may also be tax-deductible or eligible for tax credits; these include childcare expenses or school fees, expenses for domestic help, and some household equipment costs.

With a view to balancing the public finances, an exceptional tax on high incomes has been introduced that amounts to:

- 3% of taxable household income between €250,000 and €500,000 for people filing single returns, and between €500,000 and €1,000,000 for joint returns.
- This rate goes up to 4% for the portion of taxable household income that is higher than €500,000 for single people and €1,000,000 for couples.

A special exemption scheme for expatriates

The tax system for expatriate personnel is open to any person, regardless of their nationality, coming to work in France and who has not been a tax resident in France during the five calendar years prior to the date they commenced their post. The person must have been summoned to work for a company in France (regardless of the host company's nationality).

To immediately benefit from this exemption, the person must determine their tax residence in France by December 31 of the year following the year during which they commenced their post (i.e. by December 2015 at the latest for a post in France beginning during the course of 2014).

The expatriate exemption scheme applies for up to five years starting in the first full year after expatriates assume their new position.

Beneficiaries of the system receive exemption from:

- Income tax on any additional remuneration ("expatriation bonuses") directly related to their professional activity, and
- Bonuses for work undertaken abroad in the direct interest and for the exclusive benefit of the company.

Total exemptions are capped at 50% of all remuneration or, alternatively upon request, 20% of taxable income earned for work performed abroad, excluding the expatriation bonus.

At the same time, many mobility-related allowances are fully exempt from income tax, e.g. payments for a reconnaissance trip, furniture storage costs in the country of origin, agency fees incurred when looking for accommodation in France, costs of removal and a return trip at the start and end of the stay in France, schooling costs for any children who are dependent for tax purposes, etc.

Provision is also made in the system for a 50% exemption over a five-year period on income from securities, copyright royalties, and capital gains from transfers of shares and ownership interests from a foreign source.

During the same period, expatriates are only liable to pay the "wealth tax" (*impôt de solidarité sur la fortune* – ISF) on

their assets located in France. Thereafter, expatriates must pay ISF on accumulated assets (barring any exemptions) located in France and abroad. ISF is only payable on net taxable assets over €1,300,000.

Social security contributions paid by an employee to a social security scheme in their home country are deducted from taxable income in France where a social security agreement exists between the two countries permitting an expatriate employee in France to continue to pay into the scheme in their country of origin. This system also allows the contributions paid by expatriates and their foreign company into a supplementary social security protection scheme and a supplementary retirement scheme to be deducted from taxable income.

IV.3 - TAXATION FOR NON-TAX RESIDENTS

Employees in France who are not tax residents are only taxed on income from French sources.

Remuneration paid in return for work carried out on French soil is taxable in France.

Unless otherwise provided for by a tax treaty, salaries paid to non-residents are subject to tax deduction at source at a rate of up to 20% for the portion of remuneration exceeding €41,327.

Non-resident salaried employees are still required to file an income tax return with the French tax authorities at the *Service des impôts particuliers non-résidents* (tax service for non-resident individuals), and, if necessary, pay any difference between the amount deducted at source and the tax due.

In order to avoid double taxation, tax deducted at source in France usually gives rise to an equivalent tax credit in the country of residence (depending on the tax treaty between France and the country of residence).

Furthermore, most international taxation treaties make provision for temporary postings, whereby income earned through salaried work in a country is not judged to be taxable in that country if the beneficiary resides there for less than 183 days per year and if their remuneration is paid by or on behalf of an employer who is not resident in that country.

IN DETAIL

WORKING EXAMPLE OF THE TAX SYSTEM USING THE INCOME OF AN EXPATRIATE EMPLOYEE IN FRANCE

A highly skilled employee, employed by a company based in the United States, and who has not been resident in France for tax purposes since January 1, 2009, is posted by their employer to a company based in France as of January 1, 2014. They regularly travel abroad for professional reasons.

- Their net annual salary for 2014 amounts to €200,000, including an "expatriation bonus" of €60,000.
- Their "net comparative salary" in France amounts to €150,000.
- Their pay corresponding to work undertaken abroad amounts to €33,000.

The following are exempt from income tax for the year 2013:

- An "expatriation bonus" of up to €50,000, the remainder (€10,000) being taxable in the event that the expatriate employee's taxable income (€140,000), is lower than the "net comparative salary" (€150,000).
- The employee's pay corresponding to work undertaken abroad, up to a limit of €30,000 $[(200,000 - 60,000 + 10,000) \times 20\%]$, if the taxpayer has chosen this exemption option.

Total exemption: €80,000, i.e.: €50,000 + €30,000.

If, however, the employee chooses the overall ceiling of 50%, they will benefit from a higher exemption equal to €83,000 (i.e. €50,000 + €33,000), which falls below the ceiling of €100,000 (€200,000 x 50%).

ANTICIPATING PROCEDURES AND OBLIGATIONS TO MAKE A SUCCESS OF TRANSNATIONAL POSTINGS IN THE CONTEXT OF AN INTERNATIONAL PROVISION OF SERVICES

A business established outside France with significant operations in its own country may find itself needing to operate in France to provide a temporary service as part of a subcontracting arrangement.

Valérie Blandeau
PARTNER

Gaëlle Le Breton
LAWYER

WRAGGE & CO

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In such cases, the foreign company may choose to post its own employees, who form part of its regular workforce, to provide the agreed service. The length of their posting may vary from one day to several months, depending on the assignment entrusted to the employee.

PROCEDURES TO FOLLOW

Prior declaration

Before the service commences, a prior declaration must be submitted to the Regional Directorate for Enterprise, Competition, Consumption and Employment (DIRECCTE) in the region where the service is to be provided. This declaration must be made in French using an administrative form that includes the following mandatory information:

- Identity of the foreign company and its legal representative in France for the duration of the service.
- Identities of the employees, weekly working hours and rest days, status and remuneration received in France, and place of accommodation.
- Characteristics of the service (place, start date and foreseeable duration).

Work permits

Foreign companies wishing to temporarily post employees who are nationals of third countries (i.e. countries outside the EU and the EEA plus Switzerland) to France must apply to the DIRECCTE at the place where the service is to be provided for a work permit for the duration of the planned activity in France (either a temporary work permit or a "Temporary Worker" residence permit, depending on the length of the posting).

Social security arrangements

International agreements mean that employees temporarily posted to other countries remain subject to social security arrangements in their home countries. As such, remuneration received is exempt from French social security contributions.

To benefit from these provisions, the foreign company must ask the relevant authorities for a specific form. Employees must have a copy of the form in their possession throughout their posting.

Where no social security agreement exists between France and an employee's home country, the employee will be subject to the French social security system. To simplify administrative procedures, all contributions are collected by a single agency (URSSAF Alsace).

OBLIGATIONS

Statutory employment law regulations

Employees remain employed by the foreign company throughout their posting in France. This means, in particular, that their foreign employer continues to exercise disciplinary authority. However, a number of statutory French employment law regulations apply, notably in respect of the following:

- Individual and collective freedoms within the employment relationship.
- Absence of discrimination or gender inequality.
- Protection of maternity rights, maternity and paternity leave, and leave for family events.
- Working hours, time off in lieu, legal holidays, paid annual leave, and night-time working for young employees.

- Conditions governing payments into the paid leave and bad weather funds (where applicable, particularly in the construction sector).
- Statutory national minimum wage (SMIC) and payment of wages, salaries and overtime.
- Prevention of illegal work.

The employer must also inform employees of the sector-specific collective agreement on labor relations that applies throughout their posting in France, and indicate it on their pay slips (or equivalent documents).

Conversely, rules on entering into and terminating employment contracts, employee representation, professional development and complementary health insurance do not apply to seconded employees.

A number of different professions in France (architects, taxi drivers, accountants, insurers, etc.) are subject to specific regulations. Businesses operating in one of these sectors must comply with various formalities, including declarations, authorizations, and any other documents or qualifications required to practice these professions in France.

Documents to be produced in the event of an inspection

Inspection staff may demand the production of an exhaustive list of documents in French: a document confirming the lawfulness of the employer's social security arrangements, work permits for seconded employees where applicable, confirmation of a medical examination in the employee's home country or equivalent document, and pay slips or other equivalent documents.

SHORT-TERM ASSIGNMENTS IN FRANCE

Haiyan Cai
LEGAL ADVISER

DS AVOCATS

DS Avocats provides legal advice and assistance to Asian companies establishing or developing operations in France. It has had a presence in Asia for 20 years.

The European Union imposes the free movement of people, which entails the removal of internal border controls within the Schengen Area. It has also defined rules governing controls at external borders with third countries. This means that some nationalities are exempt from entry visa requirements while others are not.

There are two types of visa: the short-stay visa (up to 90 days) and the long-stay visa (more than 90 days). Short-stay visas are issued for tourism, leisure and business travel; this latter notion must not, however, be confused with the performance of paid employment. Foreign employees posted to France for short periods fall into one of three categories:

1. Employees subject to short-stay visa requirements.
2. Employees exempt from short-stay visa requirements.
3. Employees requiring a work permit.

1. EMPLOYEES SUBJECT TO SHORT-STAY VISA REQUIREMENTS

The short-stay visa is commonly referred to as a "Schengen visa" as it enables the holder to travel throughout the 26 States of the Schengen Area.

Austria	Hungary	Portugal
Belgium	Iceland	Slovakia
Czech Republic	Italy	Spain
Denmark	Latvia	Sweden
Estonia	Liechtenstein	Switzerland
Finland	Lithuania	
France (European territory)	Luxembourg	
	Malta	
Germany	Netherlands	
Greece	Norway	
	Poland	

(The United Kingdom, Ireland, Bulgaria and Romania are outside the Schengen Area.)

A visa may be requested for one of three reasons: business, tourism or leisure.

Visas are issued for stays of up to 90 days per period of 180 days, either for single entry (standard visas valid for up to 90 days) or for multiple entries (travel visas valid for between one and five years).

The 90-day period is calculated within any period of 180 days, which entails considering the 180-day period preceding each day of the stay. This new rule for calculating short stays was introduced by Regulation (EU) 610/2013 of June 26, 2013. The status of stay can be calculated via http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/border-crossing/schengen_calculator_en.html

2. EMPLOYEES EXEMPT FROM SHORT-STAY VISA REQUIREMENTS

European Union regulations set out a list of countries whose nationals are exempt from short-stay visa requirements.

This exemption applies irrespective of the reason for the stay, provided that the employee does not exceed the maximum authorized stay and has a work permit if engaging in paid employment in France.

3. EMPLOYEES REQUIRING A WORK PERMIT

The concept of business travel must not be confused with that of paid employment, which requires a work permit or professional license.

Business travel:

Regulation (EC) 810/2009 of July 13, 2009 outlines the definition of business travel in light of the EU Visa Code. This definition encompasses travel for interviews, lectures, commercial, industrial or professional events, exhibitions and conferences.

Short-term paid employment in France:

The concept of “short-term assignment” may encompass a wide range of circumstances: secondments, short-term assignments, provision of personnel from one company to another, transfers, etc. Paid employment of this kind requires a work permit (Article L. 5221-5 of the French Labor Code).

France has introduced tailored measures with regard to such work permits.

As well as exemptions from work permit requirements (for diplomats, employees seconded by EU companies, and foreign nationals accepted into the domestic market), there are categories in which local employment levels do not represent grounds for refusing a work permit (artists, models, language teachers, conference interpreters, doctors with professional licenses, technicians assembling equipment, etc.). Foreign employees on short-term intra-group assignments can also obtain an annual “Employee on Assignment” work permit, with a “C” multiple-entry visa allowing one 90-day stay per period of 180 days (if subject to visa requirements).

However, specific work permits are required in France’s overseas territories.

For short-term secondments to France, companies established in foreign countries must comply with **a core set of statutory French employment regulations** (Article L. 1262-4 of the French Labor Code) as well as verification and inspection requirements.

They must submit prior declarations to the labor inspectorate. They must also provide their customers with a certificate confirming the employee’s social security status and an up-to-date list of the names of foreign nationals subject to work permit requirements.

Companies must produce pay slips in French to meet inspection requirements for employees seconded for more than one month.

4

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, enables foreign investors to invest in France in a clear and secure legal framework.

IN DETAIL

THE TAX4BUSINESS FRANCE 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.

employees to France to prospect 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 this 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

I.2 - CALCULATING TAXABLE EARNINGS

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

Deductible expenses are those related to the company's business. They 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:

- Up to €3 million of the net financial charges (the difference between financial income and financial charges in the same category) that companies pay which are subject to corporate tax (IS) are fully deductible. For amounts above €3 million, deductible financial charges have been capped at 75% since January 1, 2014. 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 useful 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 useful life of the assets concerned (declining balance scheme).

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.

SMEs that construct or hire a firm to construct an industrial or commercial building for the purposes of operating their business in a rural regeneration area (ZRR) or urban regeneration area (ZRU) prior to January 1, 2016 are eligible for a one-off depreciation equal to 25% of the cost price once construction is completed. The residual value of construction is depreciated over the normal useful life (the first annuity is added to this one-time depreciation).

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

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

Corporate tax (*impôt sur les sociétés* – IS) rates are as follows:

- For large companies: standard rate of 33.33% plus, for companies with pre-tax turnover of over €7,630,000, an additional “social contribution” of 1.1 percentage points, i.e. a rate of 34.43%.¹ From January 1, 2014 to December 31, 2015 companies with over €250 million in turnover must pay an exceptional contribution equal to 10.7% of the corporate tax due.
- For small and medium-sized businesses (SMEs): reduced corporate tax rate of 15% up to €38,120 of earnings and the standard 33.33% rate on the remainder. SMEs are exempt from paying an additional “social contribution”.²
- Proceeds from intellectual property (royalties and capital gains on the transfer of patents, if they have been held for at least two years³) are eligible for a reduced rate of 15%. This affects patents, inventions that can be patented and manufacturing processes, as well as improvements made to patents and patentable inventions.
- Permanent establishments located in France that hold equity interests in French and foreign companies are only taxed at a rate of 5% of these companies’ redistributed dividends. Companies are eligible for this reduced tax rate if they own a stake of at least 5% in each company and have owned the securities for at least two years.
- Capital gains on the sale of shareholdings held for at least two years are totally exempt except for the 12% representing expenses. This exemption no longer applies to transferred securities of companies located in a state considered non-cooperative for tax purposes.

1 - Contribution at rates of 3.3% calculated on the standard corporate tax amount (i.e. $3.3\% \times 33.33 = 1.1\%$), minus a €763,000 rebate.

2 - SMEs with at least 75% of their shares owned, directly or indirectly, by individuals; or companies satisfying the same conditions with an annual turnover of less than €7,630,000, subject to having fully paid-up share capital.

3 - If no arm’s-length relationship exists (companies in the same group), transfers are not eligible for a reduced rate.

I.6 - CARRYING LOSSES FORWARD (OR BACK)

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

IN DETAIL

LOSSES CAN BE CARRIED FORWARD INDEFINITELY

Annual losses of up to €1,000,000 (plus 50% of subsequent profits exceeding this figure) may be carried forward.

• **Example 1:**

A company records a loss of €900,000 in the tax year ending in 2015.

In 2016, it makes a profit of €1,500,000.

The company can then deduct the entire loss recorded in 2015, leaving a taxable profit for the tax year 2016 of €600,000.

• **Example 2:**

For the tax year ending in 2015, a company records a loss of €2,000,000.

In 2016, it makes a profit of €1,500,000.

The loss carried forward to 2016 is €1,250,000 [= €1,000,000 + (50% x €500,000)] and the company's taxable profits will be €250,000 (= €1,500,000 - €1,250,000).

The portion of the loss recorded in 2015 that cannot be deducted from the company's 2016 profits, i.e. €750,000 (= €2,000,000 - €1,250,000) can then be carried forward to the subsequent tax years.

IN DETAIL

CARRY-BACK RULES

Carry-back rules allow the current year's loss to be offset only against taxable income in the previous year and only up to the profit recorded in the previous tax year, or €1,000,000, whichever is smaller. This results in a non-taxable claim against the French Treasury for previously paid taxes. The Treasury reimburses this tax receivable after five years if the company fails to deduct it from their forthcoming corporate tax bills. It may also be used as collateral with credit institutions (Daily Act).

• **Example:**

In 2015, a company subject to corporate tax records taxable income of €1,500,000. In 2016, it declares a taxable loss of €3,000,000.

Since the offset losses cannot exceed €1,000,000, the company will only be able to carry back €1,000,000. The remaining €2,000,000 (= €3,000,000 - €1,000,000) can be carried forward.

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

Groups of companies are eligible for tax breaks under French law, specifically when the parent company owns a stake of at least 5% in its subsidiaries (cf. section I.5).

Moreover, 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.

The tax consolidation option may apply once the French subsidiaries in the consolidated group are at least 95% owned, directly or indirectly, by a French parent company. The financial years of the parent company and its subsidiaries must also coincide. Groups may choose this option for a five-year period. It automatically ceases to apply if ownership conditions are no longer met.

SMEs can deduct from their income the deficits of their branches or subsidiaries in which they have a direct stake of at least 95%, if the latter are established in a European Union Member State (or in a State which has signed a tax treaty with France containing an administrative assistance clause) and are subject to a tax equivalent to corporate tax. This benefit is capped at €200,000 per company over a three-year sliding period (European Union 'de minimis' policy cap).

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 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.

IN DETAIL

THE HOLDING COMPANY SCHEME

Holding companies established in France, and which have held a stake of at least 5% 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 (cf. section I.5).

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 (cf. restrictions in section I.5).

Dividends distributed by holding companies are taxed according to the rules explained in section II.2.

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 a resident of the European Union (EU)

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 a resident outside the EU

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.

Foreign companies established in France as branches are subject to the 3% contribution due to the sums that cease to be available for operations in France.

Earnings from securities and royalties

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

Higher rates for "tax havens"

A 75% withholding tax applies to the distribution of investment income (primarily dividends and interest) from a French source received through financial institutions located in tax havens officially referred to as "Non-Cooperative States or Territories" (NCSTs)⁴, regardless of the beneficiary's actual income tax residence.

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.

⁴ - List of NCSTs set out in the Ministerial Order of February 12, 2010 and modified by Ministerial Order of April 4, 2012: Botswana, Brunei, Guatemala, the Marshall Islands, Montserrat, Nauru, Niue and the Philippines.

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. Sales of goods outside France are fully exempt from VAT.

France's standard VAT rate on sales of goods and services is 20%, but there are several reduced rates. A 10% tax rate applies to restaurants, hotels, public transport, newspapers and magazines and certain leisure activities. The rate on food, books (including those downloaded online), construction and renovation of social housing and certain agricultural products is 5.5%, while the rate on medicinal products is either 5.5% or 2.1%.

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.

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:

- Introduction on January 1, 2015 of reverse-charge procedure for VAT on imports.
- 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.

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. Companies delivering or importing goods worth more than €460,000 a year to or from another Member State must file a DEB form each month. The form provides information about product categories, countries of origin and destination, values and weights.

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. The DEB must be filed electronically when the shipments or intakes conducted during the previous calendar year exceed €2,300,000, excluding taxes.

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. This form must be filed online when sales exceed €32,600.

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 (according to 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.

IV - LOCAL TAXES PAID BY COMPANIES

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

The *contribution économique territoriale* (CET) comprises the corporate property contribution (*cotisation foncière des entreprises* – CFE) and the contribution for value added by businesses (*cotisation sur la valeur ajoutée des entreprises* – CVAE).

The CET is capped at 3% of the company's value added. 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* – IFR) 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 IFR 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.

Contribution for value added by businesses (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. 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 CET⁵ in their startup year and that the CFE tax base is reduced by 50% in the second year.

⁵ - 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	€1.68 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).

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

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

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:

Commune	15.00%
Département	12.41%
Total	27.41%

Property tax due over the three following years:

	Tax base	Rate	N	N+1	N+2	N+3
To the commune	€28,000	15.00%		€4,200	€4,200	€4,200
To the département	€28,000	12.41%		Exemption		€3,475
Total				€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.

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.

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 expenditure incurred as of January 1, 2014 SMEs that use innovation expenses for projects to design prototypes, new products or pilot equipment may receive a special innovation tax credit (*crédit d'impôt innovation*) at a rate of 20%, or 40% in France's overseas territories.

Eligible innovation expenses are capped at €400,000 per year, which means a company can receive a tax credit of up to €80,000 per year within the limits set by the European Union state aid cap for innovative operations. Since January 1, 2014 the research tax credit advance ruling procedure has been expanded to include innovation expenses.

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 6% of remuneration paid as of January 1, 2014 for all salaries up to 2.5 times the statutory national minimum wage (*saire minimum interprofessionnel de croissance* – SMIC). This rate of 6% is increased to 7.5% 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 (IEIs) and ailing companies may receive the credit immediately.

The CICE only covers gross pay up to 2.5 times the statutory national minimum wage (SMIC), i.e. €3,643.79 gross per month as of January 1, 2015. 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 related productions must be produced primarily in French.

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, 2016. The tax credit amounts to 20% of expenditure in France (rising to 30% in 2016), capped at 80% of the film's total production budget. The tax credit is capped at €20 million per film (and not per company), before rising to €30 million per film in 2016.

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 20% 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 €1 million. The tax credit is capped for all companies at €3 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, 2015 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, 2015 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 companies” tax status (*jeunes entreprises innovantes* – JEIs) 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, 2014, 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 new scheme for expatriate employees: potential beneficiaries must opt for one or the other.

REVERSE CHARGE OF IMPORT VAT MAKES FRANCE A MORE ATTRACTIVE LOCATION

An optional reverse charge procedure has been introduced for VAT on imports into France starting on January 1, 2015. This change, sought by stakeholders for a number of years, is a major step forward.

Michel Guichard,
TAX PARTNER, TAJ, MEMBER OF
DELOITTE TOUCHE TOHMATSU LIMITED

DELOITTE

Deloitte is one of the leading French companies in data quality and secure financial transactions.

The new measure provides for a reverse charge on imports, as is already the case in 16 other EU Member States, and means that businesses can import goods directly to France without going through a foreign port for this reason. As such, France's ports and airports are now more attractive propositions.

The French Customs Authorities issued a memorandum concerning this change on January 7, 2015.

HOW DOES IT WORK IN PRACTICE?

In principle, the VAT due on goods imports can only be paid to the French Customs Authorities (disbursement of import VAT). The amount deducted is entered in the company's French VAT return filed with the French Tax Authorities.

The reverse charge procedure involves declaring the value of imports and entering the import VAT due in the French VAT return. Since the amounts entered are deducted on the VAT return (for fully eligible entities), no disbursement is necessary.

Once selected, the reverse charge option applies for three years and is renewed automatically, unless the taxpayer provides notice at least two months before the end of this period.

Goods imports and acquisitions within EU Member States ("intra-Community supplies" / "intra-Community acquisitions") on which the VAT reverse charge has applied since 1993 now fall under the same VAT rules.

The quota system allowing VAT-free imports of goods continues to apply. Under this system, VAT exemption is limited to a quota equating to the value of intra-Community supplies and exports made from France the previous year, and requires regular monitoring to not exceed the annual quota permitted by the tax authorities.

TO WHOM DOES THIS PROCEDURE APPLY?

Both EU and non-EU taxpayers may opt for the new reverse charge if the importer is registered for VAT in France (without necessarily having an establishment in France) and holds a customs clearance procedure certificate (*procédure de domiciliation unique* – PDU) in their name.

Importers that do not have a customs clearance procedure certificate must request one when they import goods through at least two different customs offices, and must meet the requirements for traceability of all their goods flows. A request should be filed at their customs office along with the new option form. The importer does not need to be an AEO (Authorized Economic Operator) but it must meet the AEO criteria. The customs authorities will conduct an audit prior to issuing a customs clearance procedure certificate to secure the collection of tax revenues.

Importers already holding already a customs clearance procedure certificate may opt for the reverse charge at their local customs office by amending their certificate and attaching the new option form.

Non-EU companies wishing to use the reverse charge must first appoint a French VAT representative as well as a customs broker who will request the customs clearance procedure certificate on their behalf.

WHAT ARE THE BENEFITS FOR COMPANIES?

Companies that are not established for VAT purposes in France and do not file VAT returns enjoy cash-flow benefits through a streamlined VAT refund process using a domestic procedure rather than the more time-consuming 8th or 13th EU Directive procedures

Furthermore, companies currently using the tax-free quota system will no longer have to monitor their VAT-free quota.

FUTURE CHANGES

This measure is just a first step and further modifications are due by the time the European Customs Code enters into force on May 1, 2016.

After this date, it will become possible to declare in France the imports of goods into another EU Member State. Companies and SMEs based in France will therefore have every interest to ask for centralized customs clearance in France. The reverse charge of import VAT in France will be a useful complementary procedure to the European Customs Code.





GOVERNMENT SUPPORT FOR BUSINESS

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GOVERNMENT SUPPORT FOR BUSINESS

A broad and varied framework of support has been set up in France in response to the needs of investors. This support depends on the type of investment project (physical investment, research and development, innovation, training, etc.), its location (priority development areas or non-priority areas) and the type of company conducting the project (large company, mid-size company or SME). The creation of Bpifrance, France's public investment bank, in 2013 consolidated this array of state aid and financing to help companies, particularly those with fewer than 5,000 employees, to expand in France and increase their exports.

Support from the French authorities comes in various forms:

- Subsidized or interest-free loans
- Grants for physical investment projects and R&D
- Reduced real estate costs
- Tax exemptions
- Exemptions from employer social security contributions
- Tax credits
- Covering certain expenses (e.g. training costs for new employees, etc.)
- Government guarantees
- Equity investments

Support can be provided at national level and/or local level.

I - RECEIVING SUPPORT FOR INVESTMENT AND JOB CREATION

A variety of financial incentives for business investment and job creation are administered by central government, local authorities and government agencies.

IN DETAIL

Business France helps foreign investors to ascertain which forms of government support their projects may be eligible to receive and to prepare their applications. Business France can also act as an intermediary between foreign businesses and any French government body (ministries, local authorities, government agencies, etc.) that can facilitate their investments in France.

IN DETAIL

ASSESSING THE SIZE OF A COMPANY (EXCLUDING THE AGRI-FOOD SECTOR)

EU REGULATORY DEFINITION OF SMALL AND MEDIUM-SIZED ENTERPRISES (SMEs)¹

- Medium-sized enterprises satisfy all of the following criteria: fewer than 250 employees, annual turnover under €50 million or total balance sheet assets of under €43 million and free of any controlling interest (25% of equity or voting rights) by a large company.
- Small enterprises have fewer than 50 employees and annual turnover or total balance sheet assets of under €10 million. They are also independent of any large company.

Calculation of employee numbers, turnover and total balance sheet assets must factor in all the businesses in which the company has a direct or indirect interest exceeding 25%. Employee and finance thresholds must be exceeded in two consecutive financial years for the company to gain or lose SME status.

DEFINITION OF A MID-SIZE COMPANY²

Mid-size companies are companies that have:

- Between 250 and 5,000 employees.
- Total balance sheet assets of under €2 billion.
- Turnover that remains below €1.5 billion.

Under EU regulations on state aid, mid-size companies are subject to the same rules as large companies (except in the agri-food sector), yet they are eligible for the measures designed for them under French law.

EU REGULATORY DEFINITION OF A LARGE COMPANY

EU regulations on state aid stipulate that a large company is an enterprise that does not meet the aforementioned criteria for SMEs.

¹ - European Commission recommendation of May 6, 2003 concerning the definition of micro, small and medium-sized enterprises

² - Definition as per the French government Economic Modernization Act of August 4, 2008.

I.1 - AVAILABLE SUPPORT

Support is provided in many different forms, for either investment outlays (buildings, land and equipment) over three years, or the cost of job creation arising from the investment (estimated salaries and social security contributions over two years).

Each form of support is subject to specific eligibility conditions. Investment projects and jobs receiving aid are required to remain in the same region for five years (large companies) or three years (SMEs).

Support	Terms and conditions	Further information
GRANTS FOR INDUSTRY AND SERVICES <i>(Prime d'aménagement du territoire – PAT)</i> Ministry responsible for regional development	Only in regional aid areas (zones AFR) – Investment grant from the Ministry responsible for regional development Amount: Up to €15,000 per permanent job created, maintained or preserved. Conditions for site creations: <ul style="list-style-type: none"> • Net creation of at least 20 permanent jobs and investment of at least €3 million. Conditions for expansions of existing operations (SMEs) or diversification: <ul style="list-style-type: none"> • Net creation of 20 permanent jobs and a 50% increase in employment at the site. • Net creation of at least 40 jobs and €3 million in investment. • Investment of at least €10 million. Conditions for takeovers of ailing companies: preservation of at least 50 permanent jobs and investment of at least €3 million (excluding takeover costs).	For further information, and to download the PAT application forms, please visit the Commission for Regional Equality (CGET) website: www.cget.gouv.fr
INTEREST-FREE LOANS FOR INDUSTRY <i>(aide à la réindustrialisation)</i> "National Investment Program"	Interest-free repayable advance Only available to SMEs. Conditions: Investment of at least €2 million and the net creation of at least 10 jobs over 24 months. Amount: €500,000.	www.entreprises.gouv.fr/politique-et-enjeux/aide-a-la-reindustrialisation-pme
CORPORATE TAX EXEMPTIONS	Corporate tax exemptions over a period of five to seven years For investments in certain areas (employment priority areas (BERs) or military restructuring areas (ZRDs)).	www.impots.gouv.fr
SUPPORT FROM LOCAL AUTHORITIES	Support for acquisitions of tangible fixed assets Grants and interest-free loans. Terms and conditions determined by local authorities. Support for real estate investments Grants, interest-free loans, reduced purchase prices for real estate (land and/or buildings). Terms and conditions determined by local authorities. <ul style="list-style-type: none"> • SMEs: 10% of the market value of the property, or 20% of the market value up to €200,000 over three years. • Large companies: 10% of market value up to €200,000 over three years. Real estate rent support Reduced rental costs for land or buildings. Up to €200,000 over three years.	www.aides-entreprises.fr
EXEMPTION FROM THE LOCAL ECONOMIC CONTRIBUTION (CET)	Only in regional aid areas (zones AFR) – Partial and total exemption The duration (from two to five years) and amount of the exemptions are at the discretion of the local authorities (<i>communes, départements and régions</i>)	www.aides-entreprises.fr

Cumulative limits on state aid for EU regional aid areas

To find out whether your investment project is located in an area that is eligible for financial support, consult the geographical area questionnaire on the following website:

<http://carto.observatoire-des-territoires.gouv.fr/#v=map1;i=typo afr.zonage afr;l=fr>

If an investment project exceeds €50 million, government intervention must be reduced to comply with EU rules (see “In detail” about large projects).

Mainland France and Corse (Corsica)		Guadeloupe, Martinique, Mayotte, Réunion, French Guiana
Regional aid rates		
	Up to 10% of eligible investments (total regional state aid)	Up to 45% to 70% of eligible investments (total regional state aid)
Eligible operations		
SMEs	<ul style="list-style-type: none"> • Creation or expansion in capacity at an establishment. • Fundamental change in the production process at an existing establishment. • Acquisition of an establishment's assets where the establishment has closed or would have closed without the acquisition, and on condition that the new activity is not identical or similar to that hitherto carried out at the establishment. 	All investments
Large companies	<ul style="list-style-type: none"> • Initial investments creating new economy activities in regional aid areas: <ul style="list-style-type: none"> - Any investment in tangible and intangible assets involving the creation of an establishment or the diversification of the activity carried out at the establishment, on condition that the new activity is not identical or similar to that hitherto carried out at the establishment. - Acquisition of an establishment's assets where the establishment has closed or would have closed without the acquisition, and where the investor has no relationship with the seller, on condition that the new activity carried out with the new assets is not identical or similar to that hitherto carried out at the establishment. • Investments made to diversify existing establishments into the production of new products, subject to prior notification. 	

IN DETAIL

LARGE PROJECTS

A large project is defined as having eligible costs in excess of €50 million. It is implemented over a period of up to three years by a single business or several businesses which constitute an economically indivisible whole.

- Member States are required to notify the European Commission of aid exceeding €7.5 million given to large companies where the aid ceiling is 10%. In these instances, authorization is required from the European Commission prior to receiving any state aid.

Large investment projects in areas eligible for regional aid are subject to automatic reductions in permitted support in accordance with the size of the projects, as shown below:

Size of investment	Adjusted aid ceiling	Ceiling in regional aid areas (Zones AFR)
Less than €50 million	100% of ceiling	10%
€50 to €100 million	50% of ceiling	5%
Over €100 million	N/A	N/A

II - FINANCING YOUR INVESTMENT PROJECT

II.1 - FINANCIAL SUPPORT

France's public investment bank (Bpifrance)

Bpifrance assists companies from the start-up phase through to stock market flotation, offering support ranging from loans to equity capital and export finance. With offices in each region of France, Bpifrance offers companies financing solutions for every step of their development:

- Providing support for companies' initial investment requirements: seed funding, guarantees and innovation.
- Providing support for SME growth throughout France: venture capital and growth capital, leveraged build-ups, co-financing and guarantees.
- Boosting the development and international expansion of mid-size companies (ETIs): growth capital and business transfers, co-financing, export credits and assistance.
- Helping large companies expand their reach and stabilize their capital: business transfers, co-funding, export credits and assistance.

Banks

All foreign companies can access banking services in France (and thus open bank accounts and obtain financing) either directly or through an establishment or subsidiary in France, provided that they have sufficient collateral.

Companies can also reach out to investors to obtain seed funding, growth capital and financing during a downturn.

III - RECEIVING FUNDING FOR TRAINING AND RECRUITMENT

The French government has developed a variety of instruments to provide financial incentives for businesses to create jobs and train employees.

III.1 - FUNDING FOR JOB CREATION

Recruitment support	Description
Competitiveness and employment tax credit (CICE)	<ul style="list-style-type: none"> Corporate tax credit equal to 6% of the gross annual payroll for all salaries up to 2.5 times the statutory national minimum wage (SMIC), rising to 7.5% in the overseas territories of Guadeloupe, French Guiana, Réunion, Martinique and Mayotte.
Reduced employer social security contributions	<ul style="list-style-type: none"> No employer social security contributions payable to URSSAF for employees earning the statutory national minimum wage (SMIC). "Fillon" reduction: reduced employer social security contributions for salaries up to 1.6 times the statutory national minimum wage (SMIC). Exemption from employer social security contributions, for five or seven years, for investments in employment priority areas (BERs), military restructuring areas (ZRDs), urban enterprise areas (ZFU) and overseas territories. Subsidized employment contracts: integration contracts, apprenticeship contracts and professional training contracts.
Subsidies, tax credits, social security contribution exemptions, repayable advances	<ul style="list-style-type: none"> Subsidized employment contracts (integration contracts, apprenticeship contracts, professional training contracts and work-study contracts). Minimum wage integration contracts (<i>contrats d'avenir</i>). Employment funding granted by local authorities.

III.2 - FUNDING FOR EMPLOYEE TRAINING

Enhancing workforce skills is a key priority in France and this is reflected in a variety of programs to support business training initiatives.

These programs can partly cover costs including payments to training leaders, travel expenses for training leaders and employees being trained, other overheads, depreciation of

training equipment, related consultancy fees and the time taken off work by employees being trained.

The level of funding available depends on the status of the training recipients:

	Large companies	SMEs
Training provided to any recipient	50 %	60% (medium-sized enterprises) or 70% (small enterprises)
Training provided to disadvantaged or disabled employees	+10% pts	

To benefit from maximum allowable levels of support for their training programs, companies of all sizes may take advantage of the various forms of aid described below.

- Aid from local authorities.
- The National Employment Fund (*Fonds national pour l'emploi* – FNE) intended for companies experiencing financial hardship whose employees have urgent training needs. The local employment authorities (*Unité territoriale* at the DIRECCTE) may provide support for a variety of initiatives:
 - Training initiatives providing between 50 and 1,200 hours of theoretical and practical training.
 - Initiatives helping employees adapt to a new position requiring the equivalent of at least 120 hours in lost work time.
- European funding channeled through regions: The European Social Fund and European Regional Development Fund may cover a portion of operating expenses relating to training, salary expenses for employees participating, and ancillary expenses. The initiatives can be co-funded by government support of up to 50%.
- Tax credit for spending on management training in SMEs: This applies to individual entrepreneurs, company directors and board members. The tax credit is limited to 40 hours of training per year. In certain circumstances, it may be offset against personal income or corporate tax.
- EDEC professional development contracts: Businesses can also call on their professional and inter-professional organizations to receive technical and financial support covering 25% to 80% of training expenses.
- Companies can also receive training support for future employees through the *Pôle emploi* (National Employment Office) and the professional development joint collection agency (*organisme paritaire collecteur agréé* – OPCA). The pre-hiring training initiative (*action de formation préalable à l'embauche* – AFPE) and operational hiring program (*programme opérationnel d'embauche* – POE) are training subsidies employers receive once the employee they choose to hire has been fully trained (subject to certain conditions):
 - Support of up to €5 net/hour for internal training, up to €2,000 per employee.
 - Support of up to €8 net/hour for external training, up to €3,200 per employee.

The professional development joint collection agency (*organisme paritaire collecteur agréé* – OPCA) to which the company contributes can add to this funding to cover all or part of training costs.

Where the amount of support granted to a company exceeds €2 million, the European Commission must be notified.

IV - RECEIVING SUPPORT FOR INNOVATION, RESEARCH AND DEVELOPMENT

France has a very favorable environment to incite companies to conduct R&D operations and increase their innovation capacity.

Government support for innovation, research and development in the private sector is chiefly provided by France’s research tax credit. This is calculated at 30% of annual research expenditure on R&D operations carried out in France (50% in the overseas territories of Guadeloupe, French Guiana, Martinique, Réunion and Mayotte, up to €100 million, and 5% above this threshold). Since 2013, this research tax credit has been extended to encompass innovation spending by SMEs of up to €400,000.

Furthermore, the “innovative new company” (JEI) status enables eligible companies to receive special benefits to encourage their development in France (tax relief, social security contribution exemptions, and exemptions on capital gains from equity transfers).

In addition to this very attractive tax environment, the French authorities have created state funding tools for R&D projects within the EU framework which are administered by various ministries (notably the ministries for the economy, industry, research and ecology) and public-sector organizations, including Bpifrance, France’s public investment bank, and the National Research Agency (*Agence nationale de la recherche*). Regional and local authorities can also provide additional support in this area. Partnerships between research institutes and companies are also encouraged, particularly through France’s 71 innovation clusters.

The array of available support finances corporate R&D programs throughout France.

IV.1 - AID FOR R&D AVAILABLE THROUGHOUT FRANCE

Subsidies may cover a portion of R&D expenditure, including related payroll expenses, equipment procurement, expenses for contracted research, intellectual property and patent rights, as well as overheads.

The level of support depends on the stage of R&D underway, which may concern basic research, applied research or experimental development. Government contributions to large companies conducting shared experimental R&D projects may cover up to 40% of the total cost.

IN DETAIL

R&D PROJECT AID RATES

		Companies with 250 or more employees	Medium-sized enterprises	Small enterprises – SMEs with max 50 employees
Funding for R&D projects	Basic research	100%	100%	100%
	Applied research	50%	60%	70%
	Applied research involving cross-border cooperation between companies with the participation of at least one SME or research body	65%	75%	80%
	Experimental development	25%	35%	45%
	Experimental development involving cross-border cooperation between businesses with the participation of at least one SME or research body	40%	50%	60%
Funding for technical feasibility studies	Preparatory studies for applied research	65%	75%	
	Preparatory studies for experimental development	40%	50%	

IN DETAIL

AID FOR R&D IN INNOVATION CLUSTERS

Innovation clusters bring together entities from the industrial, scientific and public-sector communities working in the same region. They are a source of innovation as their proximity encourages the spread of information and skills, thereby facilitating the emergence of more innovative projects. They also boost France's investment attractiveness given the international profile generated by such a concentration of stakeholders.

Businesses participating in one of France's innovation clusters and conducting an R&D project approved by that cluster may be eligible to receive subsidies from government organizations supporting

R&D. Limits on subsidies for an experimental development project are raised from 25% to 40% when the project is conducted as part of a partnership.

Bpifrance also offers two aid packages for projects within innovation clusters:

- Aid for collaborative innovation projects
- Manufacturing loans following calls for proposals within innovation clusters (*prêt pour l'industrialisation des pôles de compétitivité* – PIPC).

IV.2 - EXISTING GOVERNMENT SUPPORT FOR R&D PROJECTS

To benefit from maximum permitted levels of aid for their research and development programs, businesses may take advantage of the various forms of support described below:

- Grants from the Ministry responsible for industry.
- Bpifrance support for SMEs and mid-size companies is in the form of grants, repayable advances or assistance towards the recruitment of R&D personnel.
- National Research Agency (*Agence nationale de la recherche*) assistance supports basic and applied research, public-private partnerships and dissemination of public research results to business. It operates on the basis of calls for proposals.
- Local-authority support for R&D projects may be in the form of grants, interest-free loans and advances, or loans and advances at rates below the bond-market average, and interest subsidies setting rates at between zero and the bond-market average.
- Support from the ADEME (French Environment and Energy Management Agency) for R&D projects, in particular for R&D project feasibility studies.
- Support for innovation in service-sector processes and organization may be available from local authorities. Limits are 10% of related spending for large companies, which can only benefit if they are working with an SME, 20% for medium-sized enterprises and 30% for small enterprises.

Funding is also available from the French government's €35 billion "National Investment Program", which focuses largely on research and development. These funds are administered by various bodies (Bpifrance, ADEME, etc.) and may be awarded through calls for proposals in support of programs of excellence in the form of grants, repayable advances and

equity or quasi-equity investments. For further information about current calls for proposals, please visit:

www.gouvernement.fr/investissements-d-avenir-cgi

IN DETAIL

SUBSIDIZED R&D EMPLOYMENT CONTRACTS

CIFRE (*Conventions industrielles de formation par la recherche*) contracts offer post-graduate students an opportunity to prepare their doctorate in the workplace, which receives an annual fixed grant of €14,000. These contracts are administered by the National Association for Technical Research (*Association nationale de la recherche technique*).

V - SUPPORT FOR ENVIRONMENTAL PROTECTION

France offers a range of schemes to support companies that invest in environmental protection initiatives. Aid can be offered by various public-sector bodies, including in particular the following:

- The French Environment and Energy Management Agency (ADEME). This government agency, whose purpose is to support the energy and ecological transition, offers schemes in the areas of energy, waste, transport and air quality. Most of the aid available from ADEME is provided through its regional offices. Before any application is made, contact must first be established with the regional office under which the project falls so that it can give guidance to the project owner, specify the eligibility criteria and provide technical clarification.
- Water agencies. France has six water agencies, one for each drainage basin. These agencies are government bodies whose role is to help reduce pollution and protect water resources and aquatic environments. They award subsidies and repayable advances for investments intended to prevent and reduce water pollution and to handle water-endangering waste.

Main schemes open to businesses

Investment support	Terms and conditions	Further information
HEAT FUND ("Fonds chaleur") (ADEME)	<p>An investment subsidy for projects intended to produce heat from renewable energy (biomass, thermal solar energy and geothermal energy) and to recover energy (e.g. biomass boilers).</p> <ul style="list-style-type: none"> Large-scale corporate biomass facilities (with annual biomass heat output in excess of 1,000 tonnes of oil equivalent (toe): details of an annual nationwide call for proposals, "Heat Biomass – Industry, Commerce & Agriculture" ("Biomasse Chaleur Industrie Agriculture Tertiaire" – BCIAT), are available on the ADEME website. The level of support is based on an economic analysis of the project (on average, €15-25 per toe for 20 years). Other facilities (biomass < 1,000 toe/year, thermal solar energy, geothermal energy): regional calls for proposals overseen by ADEME's regional offices in cooperation with France's Regional Councils. Flat-rate support intended to make facilities competitive relative to conventional facilities. The amount of aid may vary from region to region. For further information, please contact the relevant ADEME regional office. <p>Support from the Heat Fund is granted to projects considered to be the most effective and efficient from a technical, economic and environmental perspective, subject to the extent of available funding.</p>	<p>www.ademe.fr under "Publicité des marchés" & "Appels à projets" ("Procurement announcements" & "Calls for proposals")</p> <p>www.ademe.fr/content/liste-implantations-lademe</p>
WASTE FUND ("Fonds déchets") (ADEME)	<p>A subsidy for projects involving waste prevention, collection and recycling, and organic, material and energy recovery.</p> <ul style="list-style-type: none"> Indicative maximum rate of aid: 30%. Calculation base capped at €10 million. The availability and amount of aid may vary from region to region. For further information, please contact the relevant ADEME regional office. 	<p>www.ademe.fr/content/liste-implantations-lademe</p>
VARIOUS SCHEMES (Water agencies)	<p>Subsidies and repayable advances for investments intended to prevent and reduce water pollution and to handle water-endangering waste.</p> <ul style="list-style-type: none"> Projects designed to exceed European Union environmental protection standards: maximum rate of aid of 40-60% depending on company size (large company/small enterprise/medium-sized enterprise). Projects designed to adapt to future EU standards early: 10-20% depending on company size. Waste recycling and reuse: 35-45% depending on company size. The availability and amount of aid may vary from one water agency to another. For further information, please contact the relevant water agency. 	<p>www.lesagencesdeleau.fr</p>
Decision-making support	Terms and conditions	Information
DESIGN SUPPORT Pre-diagnosis, diagnosis and project design. (ADEME)	<p>Support for design work undertaken by external engineering and consultancy firms in all areas covered by ADEME: energy efficiency, renewable energies, the circular economy, waste, transport, etc.</p> <ul style="list-style-type: none"> Maximum rate of aid: 50-70% depending on company size (large company/small enterprise/medium-sized enterprise) Maximum eligible expenditure: <ul style="list-style-type: none"> - €50,000 for diagnosis. - €100,000 for project support studies. Excludes mandatory energy audits for companies with more than 250 employees (cf. Article L.233-1 of the French Energy Code). The availability and amount of aid may vary from region to region. For further information, please contact the relevant ADEME regional office. 	<p>www.diagademe.fr</p>
AIDE AUX ETUDES (Agences de l'eau)	<p>Support for environmental studies intended to prevent and reduce water pollution.</p> <ul style="list-style-type: none"> Maximum rate of aid: 50-70% depending on company size (large company/small enterprise/medium-sized enterprise) The availability and amount of aid may vary from one water agency to another. For further information, please contact the relevant water agency. 	<p>www.lesagencesdeleau.fr</p>
Investment finance	Terms and conditions	Information
ECO-ENERGY LOAN (Bpifrance)	<p>A loan to finance the purchase of equipment intended to improve SMEs' energy efficiency (lighting, refrigeration, heating/air conditioning, electric motors).</p> <ul style="list-style-type: none"> Eligible companies: SMEs established for more than three years. Amount: €10,000-50,000. A subsidized, unsecured fixed-rate loan. 	<p>www.bpifrance.fr</p>
ECO-TECHNOLOGY FUND (FONDS ECOTECHNOLOGIES) (Bpifrance)	<p>Acquisition of minority interests in innovative SMEs (in equity and near equity) in the fields of renewable energies and green chemicals, waste sorting and recycling, remediation, product eco-design, smart grids and vehicles of the future.</p> <ul style="list-style-type: none"> Eligible companies: innovative SMEs established for more than three years, mainly in France and unlisted. Investments from €1 million to €10 million, in the form of co-investment with private sector stakeholders. A call for expressions of interest in the Eco-Technology Fund can be accessed via the ADEME website. 	<p>www.bpifrance.fr</p>

- Local authorities. Regional Councils may offer a range of support mechanisms promoting a reduction in the environmental impact of businesses, the development of renewable energies and better energy management. These various forms of support are frequently offered in partnership with ADEME.
- Bpifrance. France's Public Investment Bank supports SMEs through the energy and environmental transition via financing (in the form of the eco-energy loans) and investment (in equity and near equity).

The maximum rate of aid for which a project is eligible is governed by EU regulations on investment aid in favor of environmental protection (Regulation (EU) 651/2014 of June 17, 2014).

IN DETAIL

THE FRENCH GOVERNMENT'S "NATIONAL INVESTMENT PROGRAM"

As the agency responsible for innovation in the ecological and energy transition, ADEME oversees the National Investment Program's funding activities for industrial innovation projects in the fields of carbon-free energy and green chemicals, smart grids, the circular economy and vehicles for the future.

ADEME uses dedicated innovation finance schemes to facilitate the sharing of risk and gains, in two forms:

- Support in the form of state aid, available via calls for expressions of interest published on ADEME's website. Support may comprise:
 - Repayable advances (loans with a government incentive in the project's success);
 - Subsidies (only available to SMEs and research bodies).
- Equity investment as a "prudent investor":
 - SMEs in the venture capital or growth capital phase: Eco-Technology Fund overseen by Bpifrance Investissement. Amounts of between €1 million and €10 million.
 - High-risk industrial projects by mid-size and large companies: ADEME invests directly in project companies. Investment may potentially exceed €10 million.

Calls for expressions of interest can be consulted at:
www.ademe.fr/investissements-davenir

BPIFRANCE FINANCING SOLUTIONS TO SUPPORT INVESTMENT PROJECTS IN FRANCE

Nicolas Dufourcq,

CHIEF EXECUTIVE OFFICER, BPIFRANCE

BPIFRANCE

Bpifrance finances businesses by providing loans, guarantees and equity capital from the start-up phase through to stock market flotation and transfer of ownership. It also provides enhanced support services to aid innovation, export development and external growth.

Bpifrance is owned in equal measure by the French government and Caisse des Dépôts (French Government Investment Fund) and underpins policies implemented by central and regional government. It serves as a single point of contact for entrepreneurs in every region of France (42 regional offices), responding to all their financing and investment needs.

In Bpifrance, companies have a powerful local ally, whose purpose it is to meet their financing requirements efficiently at every stage in their development.

www.bpifrance.fr

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SECURING BANK FINANCE

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FINANCING A GROWTH PROGRAM

PLANNING AND UNDERTAKING RESEARCH,
DEVELOPMENT AND INNOVATION PROJECTS

FINANCING THE INDUSTRIAL AND
COMMERCIAL LAUNCH OF INNOVATIONS

BOOSTING EQUITY

Our solutions

Bank loan guarantee	SMEs	Sharing credit risk with partner financial institutions by taking on between 40% and 70% of the total, depending on the project to be financed.
Receivables financing		Cash advances to offset payment times for orders and contracts secured with major public- and private-sector customers.
Competitiveness and employment tax credit pre-financing		Cash advances pending receipt of the competitiveness and employment tax credit (CICE) , which reduces a company's corporate tax bill by 6% of gross payroll, excluding salaries more than 2.5 times the statutory national minimum wage. This facility is granted for a renewable one-year term and is capped at 85% of the estimated CICE.
Research tax credit pre-financing	>1 yr	A loan of up to two years with an 18-month repayment grace period equivalent to 80% of the research tax credit expected by virtue of the eligible expenses incurred during the calendar year (minimum of €30,000). Open to businesses more than three years old that have received the research tax credit in the past.
Real-estate lease financing or long-term loans		With a minimum amount of €300,000 excluding VAT, the term varies depending on the type and quality of the real estate financed (usually between eight and 15 years). Financed in conjunction with banks or lease financing institutions, with bank loans eligible for a Bpifrance guarantee, subject to the business meeting certain criteria.
Equipment leasing or medium/long-term loans		Equipment financing (minimum of €40,000) for between three and seven years in conjunction with banks or lease financing institutions. Bank loans are eligible for a Bpifrance guarantee, subject to the business meeting certain criteria.
Development loans		A loan of up to €5 million, but not exceeding the business' total equity, over a seven-year term, with a two-year principal repayment grace period and either a fixed or floating rate. Financed in conjunction with banks or equity investors.
Innovation support		A subsidy during the project feasibility phase, and either a repayable advance if the project is successful or an interest-free loan to help finance the development of technologically innovative products, processes or services offering real prospects of commercial success.
Support for collaborative projects		Financial support for partnerships set up to deliver strategic innovation projects. This takes the form of a subsidy for industrial research or a repayable advance for experimental development. Both are granted either through the Interministerial Fund in conjunction with innovation clusters (accredited projects), or through the call for key competitiveness-boosting projects, a component of the French government's "National Investment Program".
Innovation loan (FEI)	SMEs	A loan of between €50,000 and €3 million, but not exceeding the business' total equity, over a seven-year term, with a two-year capital repayment grace period to finance intangible expenditure arising from the industrial and commercial launch of innovative products, processes or services: recruitment, investment, product sourcing, marketing, distribution, travel, trade fairs, working capital, etc. Businesses must be able to prove that they have either filed a patent, or received innovation development funding or France's research tax credit in the last two years.
Venture capital and growth capital investment		Acquisition of stakes in companies with high development potential , from the start-up phase to transfer of ownership, either directly or via regional or sector-specific partner funds. Investments of between €300,000 and €50 million. Bpifrance and its partners usually acquire minority interests with a view to maintaining them for seven years. This support may also take the form of near-equity investments (e.g. convertible bonds).

SME: (a) fewer than 250 employees, and (b) annual turnover of less than €50 million or total balance sheet assets of less than €43 million.

Mid-size company: (a) fewer than 5,000 employees, and (b) annual turnover of less than €1.5 billion or total balance sheet assets of less than €2 billion.

For a group of companies (where companies own at least 25% of or are at least 25% owned by the company in question), these thresholds apply to the consolidated financial statements.



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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.

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 agreement

Convention de sécurité sociale • Social security agreement

Crédit d'impôt recherche • Research tax credit

D

Déclaration unique d'embauche • Employee hiring form

Décret • Decree

Département • For administrative and political purposes, France is divided into 27 *régions* and 101 *départements* (broadly equivalent to a county in English-speaking countries). *Départements* are further subdivided into *communes*.

Détachement / salarié détaché • Posting / posted employee

Dirigeant • Company director (Chairman, CEO, Chief Executive, Managing Director, etc.)

E

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

F

Forfait jours • Flat-rate agreement (days worked per month/year)

G

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

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

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 *région/département*.

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

Salairé 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

V

Visa de circulation • Circulation visa

Visa court séjour • Short-stay visa

Visa de long séjour • 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 <i>French Customs Authorities.</i>	www.douane.gouv.fr
Agence de l'environnement et de la maîtrise de l'énergie (ADEME) <i>French Environment and Energy Management Agency.</i> <i>Government agency responsible for the application of environment, energy and sustainable development policy. The ADEME helps finance projects in five sectors (waste management, land preservation, energy conservation/renewable energy sources, air pollution and noise pollution) and assists efforts towards sustainable development.</i>	www.ademe.fr
Ambassades et consulats français à l'étranger <i>French Embassies and Consulates.</i>	www.mfe.org/ index.php/Annuaire/Ambassades-et-consulats-francais-a-etranger/
Autorité de la concurrence <i>French Competition Authority – rules on anti-competitive practices and must be notified of large concentrations between undertakings.</i>	www.autoritedelaconcurrence.fr
Autorité des marchés financiers (AMF) <i>French Financial Market Authority – financial regulations.</i>	www.amffrance.org
Bpifrance <i>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.</i>	www.bpifrance.fr
Centre de formalités des entreprises (CFE) <i>Business Formalities Center.</i> <i>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.</i>	www.cfenet.cci.fr/ www.infogreffe.fr/infogreffe/index.jsp www.guichetentreprises.fr
Centre des liaisons européennes et internationales de sécurité sociale (CLEISS) <i>Center of European and International Liaisons for Social Security.</i> <i>Acts as a liaison body between French social security organizations and those in other countries, with regard to international regulations and social security agreements.</i>	www.cleiss.fr
Centre national des firmes étrangères (CNFE) <i>National Center for Foreign Firms.</i> <i>For foreign companies without a permanent establishment in France employing personnel.</i>	www.strasbourg.urssaf.fr
Chambres de commerce et de l'industrie <i>Chambers of Commerce and Industry.</i> <i>Information on setting up a business (examples of articles of incorporation) plus general advice concerning legal and tax issues.</i>	www.cci.fr
Commissariat général à l'égalité des territoires (CGET) <i>French Commission for Regional Equality.</i> <i>Department of the Prime Minister's office which works with the Ministry 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.</i>	www.cget.gouv.fr
Commission nationale de l'informatique et des libertés (CNIL) <i>French Data Protection Authority.</i> <i>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.</i>	www.cnil.fr

<p>Directions régionales des entreprises, de la concurrence de la consommation, du travail et de l'emploi (DIRECCTEs) <i>Regional Directorates for Enterprise, Competition, Consumption and Employment.</i> <i>The foreign labor department of the local employment authorities (unités territoriales) within each DIRECCTE issues work permits, among other responsibilities.</i></p>	<p>www.direccte.gouv.fr</p>
<p>Direction générale des entreprises (DGE) <i>Businesses Directorate</i></p>	<p>www.entreprises.gouv.fr/</p>
<p>Direction générale de la consommation, concurrence et de la répression des fraudes (DGCCRF) <i>Directorate for Competition Policy, Consumer Affairs and the Prevention of Fraud.</i> <i>Responsible for the regulation and proper functioning of markets.</i></p>	<p>www.economie.gouv.fr/dgccrf</p>
<p>Direction générale du trésor (DG Trésor) <i>Treasury Directorate.</i> <i>Receives declarations of foreign investment; authorizes investment in sensitive sectors.</i></p>	<p>www.tresor.economie.gouv.fr</p>
<p>Direction générale des finances publiques (DGFIP) <i>Public Finances Directorate.</i> <i>Tax authorities. Single gateway for foreign investors.</i></p>	<p>www.impots.gouv.fr tax4business@dgifip.finances.gouv.fr</p>
<p>Direction régionale de l'environnement, de l'aménagement et du logement (DREAL) <i>Regional Directorate for the Environment, Development and Housing – responsible for regulated facilities.</i></p>	<p>www.developpement-durable.gouv.fr/Liste-des-21-DREAL</p>
<p>Grefe des tribunaux de commerce <i>Commercial Court Registry.</i> <i>Business startups (documents to be submitted with the articles), corporate takeovers.</i></p>	<p>www.greffes.com/fr/formalites/guide-des-formalites</p>
<p>Institut national de la propriété intellectuelle (INPI) <i>French Patent and Trademark Office.</i> <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>www.inpi.fr/</p>
<p>Ministère de l'écologie, du développement durable et de l'énergie <i>Ministry for Ecology, Sustainable Development and Energy.</i></p>	<p>www.developpement-durable.gouv.fr</p>
<p>Ministère de l'économie, de l'industrie et du numérique <i>Ministry for Economy, Industry and Digital Affairs.</i></p>	<p>www.economie.gouv.fr</p>
<p>Ministère de l'éducation nationale, de l'enseignement supérieur et de la recherche <i>Ministry for Primary, Secondary and Higher Education and Research.</i></p>	<p>www.education.gouv.fr www.recherche.gouv.fr</p>
<p>Ministère du travail, de l'emploi et du dialogue social <i>Ministry for Labour, Employment and Industrial Relations.</i> <i>Procedures for hiring foreign salaried employees, addresses of regional employment offices, practical information on French employment law.</i></p>	<p>www.travail-emploi.gouv.fr/</p>
<p>Office Français de l'immigration et de l'intégration (OFII) <i>French Immigration and Citizenship Office.</i> <i>Responsible for the reception in France of legal immigrants. Services for employees and directors transferred within a group</i></p>	<p>www.ofii.fr www.immigration-professionnelle.gouv.fr</p>
<p>Pôle emploi <i>National Employment Office – places the unemployed into work and administers benefits.</i></p>	<p>www.pole-emploi.org</p>
<p>Portail de l'administration française <i>French government portal.</i></p>	<p>www.service-public.fr</p>
<p>Préfecture de police de Paris <i>Paris Police Headquarters.</i> <i>Issuing and renewing residence permits for foreign nationals residing in Paris.</i></p>	<p>www.prefecture-police-paris.interieur.gouv.fr</p>
<p>Union européenne <i>European Union.</i></p>	<p>www.europa.eu.int</p>
<p>Unions de recouvrement des cotisations de sécurité sociale et d'allocations familiales (URSSAF) <i>Agency responsible for collecting social security contributions.</i></p>	<p>www.urssaf.fr</p>

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

Founded on January 1, 2015 through a merger between UBIFRANCE and the Invest in France Agency, Business France has 1,500 personnel, both in France and in 70 countries throughout the world, who work with a network of public- and private-sector partners.

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