



Doing business in France

2008 Edition

THE NEW FRANCE. WHERE THE SMART MONEY GOES.



Doing
business
in France





Message from the CEO

I am pleased to present “Doing Business 2008”.

This guide was created for you, foreign corporate managers, who wish to set up business in France. Written by IFA experts with the help of agency partners (law firms, audit offices and human resources offices), it provides a clear summary of the business law environment in 2008.

I am sure it will prove very useful: since the presidential election in May 2007, France has introduced major reforms at a faster rate than ever before all to the advantage of businesses.

Taxation has been reduced and simplified, labour laws have been made more flexible, R&D has been made a national priority, and company regulations have been modernized and brought into line with European laws: France is a country that strongly supports research and fosters the creation of business. It is up to you to benefit!

France has also embarked on an active policy to attract foreign talent by simplifying entry conditions for skilled workers.

IFA and its partners at regional development agencies are at your disposal to assist and advise you in setting up your project.

Philippe Favre

*French Ambassador for International Investment,
Chairman and CEO of Invest In France Agency*

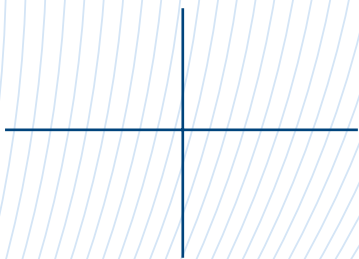


Disclaimer: This document presents the basic rules that apply to international companies locating their business activities in France. For practical purposes, this document presents a general overview but also essential information about legal, tax and labor issues to facilitate company decisions. The information included is not comprehensive and the IFA cannot be held liable for any omissions or errors. It is recommended that investors use the services of professional consultants for advice on individual cases.

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Everything you need to know to succeed in France

Chapter I Doing Business in France

EVERYTHING YOU NEED TO KNOW TO SUCCEED IN FRANCE

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 your requirements, and you benefit from the same conditions that apply to French and European citizens.

IN DETAIL

Simple steps for international investors to follow

→ A statistical return to be filed with a credit institution for transactions in which a non-resident acquires 10% or more of the equity or voting rights in a resident company.

→ An administrative return to be filed with the Ministry of the Economy (Treasury and Economic Policy Directorate) for investments that create new companies, result in the acquisition of all or part of a line of business, or the acquisition of a direct or indirect equity interest in (or any other transaction with) a French company representing more than a third of its shares or voting rights [unless the investor already owns more than a 50% interest in the French company], if the investment is greater than €1.5 million.

Special cases:

as in many other countries, prior authorization is required for investments in certain sectors that are considered sensitive.

In these sectors, authorization is required for acquisition of a controlling interest (i.e., a majority of voting rights) and the direct or indirect acquisition of all or part of a business line. For investors from outside the EU and the European Economic Area, authorization is also required for the acquisition of direct or indirect interests exceeding 33.33% of equity or voting rights unless the investor has already been authorized to take a controlling interest.

Authorization would either be granted within two months or less or otherwise be deemed tacit.

Sectors concerned:

gambling; private security services; the prevention of illicit use of biological or toxic agents; equipment designed to intercept correspondence; the evaluation and certification of systems used in information technology; the production of goods or providing of services relating to the security of information systems; goods and technology with dual applications; encryption and decryption systems for digital applications; businesses certified for national defense; trade in weapons, munitions and explosives for military applications or equipment used in warfare; businesses under contract to supply research or equipment to the Ministry of Defense.



For more information:

Articles L151-1 to L152-6 of the French Monetary and Financial Code.

Ministerial order of March 7, 2003, n°2003-196

Decree 2005-1739 of December 30, 2005 on regulation of foreign financial relations.

I. Multiple solutions for your business

The practical implementation of a decision to set up business in France depends on the investor's strategy and the degree of independence that the French operations are to have from the parent company.

I.1. Reducing administrative procedures: short-term solutions

A foreign company that wants to prospect for business in France and promote its products, can start by having a single employee or by opening a liaison office. This option involves a particular tax and company status.

I.1.1. Liaison offices: 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. Such offices are not separate legal entities. Invoices must be issued by the parent company, which must also sign any contracts.

Liaison offices are not permanent establishments with respect to tax laws. They are not subject to corporate income tax or VAT, but must pay certain local taxes and payroll taxes. If the office starts commercial activities, or carries out a complete manufacturing cycle, or acts as a fixed place of business through which the company conducts all or part of its business, it may be reclassified as a branch or 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 has been received within three months).

I.1.2. If you wish to develop a commercial activity: sales representatives

Sales representatives may either be employees of foreign companies or traveling sales representatives (VRP).

Traveling sales representatives are intermediaries employed by one or more companies to visit customers in the representative's sales territory. These representatives work independently, contacting prospective clients to offer goods and services. Their primary tasks are making sales calls, taking orders and submitting these to their employers. Traveling sales representatives have a special legal status in France and receive special compensation should their contract be terminated.

These representatives, including these with "multi-card" status, are subject to personal income tax on salaried income.

I.1.3. Another solution: sales agents

Foreign companies may also employ 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 sector of activity. 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 the case of professional misconduct, the agent is entitled to compensation based on gross commissions received; in principle, this will represent the equivalent of two years of the same.

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

1.2. Planning for the future - two key decisions

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

1.2.1. Branches - the simplest solution

Branches enable foreign companies to establish a beachhead in France for a commercial activity.

Branches are headed by a legal representative and report 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 unlimited liability for their debts.

Branches are permanent establishments with regard to tax laws and must pay corporate income 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 business, and is subject to tax.

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

Subsidiaries are companies incorporated under French law and, as such, are separate legal entities. Setting up a subsidiary offers several 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, subsidiaries' losses cannot be offset against parent companies' profits;
- Subsidiaries are entitled to renewable commercial leases;
- Subsidiaries may apply for government assistance when starting up or expanding;
- Subsidiaries can enter into agreements on sales and technical royalties, commissions, management fees, etc.

The company becomes a separate legal entity when it is entered in the company register (Registre du Commerce et des Sociétés). The founders are personally liable for their legal commitments during the inception phase, and these are consequently assumed by the newly incorporated company.

The subsidiary must pay all applicable taxes. Assistance from specialized legal counsel is recommended when setting up a subsidiary. Bar associations can provide lists of lawyers in France.

legal advice

Maitre Pierre-Yves Bourtourault, Attorney at law, Baker & McKenzie

THE 11 MAIN STEPS FOR CREATING A COMPANY

1. Choose between a branch and a subsidiary - If a real commercial or industrial activity is envisaged, it is preferable to create a subsidiary which allows a clearer segregation of local operations of the foreign company.
2. Choose the form of the company, usually SARL, SAS or SA. In certain cases the choice of a partnership ("société civile", "société en nom collectif") may be adapted. The SARL remains the least complicated form to begin with.
3. Prepare draft articles of incorporation and bylaws as well as a draft of the decision to appoint the first manager. In practice this phase generally takes two days upon receipt of all requested information. The main information to be provided in order to prepare the bylaws includes: corporate name (selection of name requires a verification of the availability of such name. This takes about a week to complete); definition of the purpose of the company, registered address, identification of the corporate auditor for an SAS or SA, name of the first manager(s) and supporting documents.
4. Sign a lease. Where final offices have not been identified, a temporary domiciliation with a domiciliation company is advisable to accelerate the process. In this latter case, lease documentation can be prepared in 24 hours.
5. Open a bank account to receive the capital. When the funds are wired by a foreign company acting as a shareholder, this phase may take two or three weeks.
6. Signature of the articles of incorporation and bylaws and of the decision to appoint the first manager after receipt of the capital and obtaining of a certificate regarding same from the bank. The company is at this stage in the process of incorporation. One should ascertain the availability of a legal representative of shareholders, duly empowered, to avoid delaying the process.
7. Filing of incorporation documents and of nomination of the first legal representative(s) (managers) with the "Centre de formalités des entreprises". If the manager is not a resident of the European Union, a declaration must be made with the Préfecture in order to obtain a receipt to attach to the documents to be registered. Incorporation formalities can be handled by the "Centre de formalités des entreprises" under an urgent procedure of two days.
8. The "Centre de formalités des entreprises" communicates the information received to the various competent authorities: tax offices, INSEE, URSSAF, Commercial Register (about two days)
9. Obtain INSEE number (company registration number). About two days, if the relations between the "Centre de formalités des entreprises" and the various competent authorities are computerized. About two weeks in other cases.
10. Obtain Kbis statement (certificate showing company information) from the Commercial Register. An urgent procedure allows a direct filing of all incorporation documents with the Commercial Register. In such cases it is possible to obtain the Kbis within two days.
11. Formalities with the Employment Authorities and Immigration Authorities for foreign employees before their arrival in the company.

II. Setting up your business rapidly

The introduction of one-stop service has greatly simplified the administrative formalities for setting up businesses in France.

II.1. A one-stop shop: the “Centre de formalités des entreprises” (CFE)

All the formalities for setting up a new company can be dealt with in one place: the “Centre de formalités des entreprises” (CFE). This center takes charge of all documents required to set up, change or close down companies and delivers them to the relevant authorities, including:

- The registrar’s office (Greffier) of the Tribunal de Commerce, which first issues, free of charge, a Business Creation Certificate (implemented at the end of 2004), and then, once the company has been registered, issues a K-bis registration certificate.
- The tax authorities (Centre des impôts) and social security agencies, including URSSAF (Union de Recouvrement des cotisations de Sécurité Sociale et d’Allocations Familiales), which collects payroll taxes.

II.1.1. Speedy registration process

The CFE provides the application form (“MO form”) and list of documents to be submitted, which must be translated into French. The application must be filed by a duly empowered person with written authorization from the company.

It takes a few days for a company to be recorded in the company register (RCS). When a company is “pending registration”, its legal representative can use the Business Creation Certificate for dealings with the authorities and public and private-sector organizations (e.g., accessing the new company’s bank account).

Administrative formalities cost approximately €83.96 (as of June 1, 2007), plus the cost of publishing a notice in the legal gazette (approximately €230).

It is now possible to complete the formalities for setting up, changing or closing a company on-line. There are some formalities that the CFE does not handle:

- Applications for authorization to engage in regulated professions, licenses or registration with professional associations for lawyers, accountants, architects, physicians, etc.;
- Proof of address;
- Formalities to register trade names and brands with France’s National Industrial Property Institute (INPI);
- Registering internet domain names ending in “.fr” with the French Internet Names and Cooperation Association (AFNIC);
- Registration of the company with an insurance center;
- Registration with an employee retirement plan (must be done within three months of registration).

Formalities relating to hiring employees must be completed with URSSAF using a special form (Déclaration Unique d’Embauche).

II.1.2. Industrial property rights

French industrial property laws provide effective protection for patents, trademarks, models and designs. INPI is the core of the French protection system, and filings with it are the starting point for patent and trademark protection. Industrial property rights entitle patent holders to a monopoly on use for 20 years. Trademarks are valid for 10 years and can be renewed indefinitely. Models and designs are protected for 25 years.

Company names, trade names and logos are also protected and can be cited in unfair competition suits.

II.2. Registering your Liaison Office

Documents to be submitted concern the representative (proof of identity, police record, specific documents for expatriates, business permits including declaration to the prefecture or commercial

residence permit if necessary), two copies of the company's articles of incorporation translated into French, as well as a document attesting tenancy or ownership of premises.

11.3. A single contact handling your administrative procedures

The representative of a foreign company that has no business establishment in France but that employs salaried personnel covered by the French social security system, must register with URSSAF directly using the "EO" form and submit a copy of his or her contract of employment, as well as the Déclaration Unique d'Embauche. URSSAF will assign the representative a SIRET number and notify the authorities concerned. Such employees pay their own employer and employee social security charges every quarter.

A sales agent is self-employed must be registered with the special register of sales agents.

11.4. Registering your branch

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

- Two copies of the parent company's articles of incorporation (two originals and two translated into French by a court-approved translator);
- Proof of address;
- Certificate of good standing from the foreign company register;
- Documents relating to the person empowered to act on behalf of the company (including declaration to the prefecture or commercial residence permit as appropriate).

11.5. Simplified registration formalities

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

- Two originals of the articles of incorporation giving the names of the directors and, where appropriate, the names of the statutory auditors;
- Two copies of the official appraiser'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, along with a police clearance record and a representative's mandate;
- If appropriate, a copy of the professional card, or degree or certificate required to engage in regulated professions;
- If appropriate, the declaration to the prefecture or commercial residence permit of the directors;
- A certificate of deposit from a bank for the new company's initial capital reserve;
- A summary of the formalities completed on behalf of the new company.

The K-Bis certificate issued by the court clerk's office is proof that the company has been set up.

legal advice

Maitre Julien Balensi, Attorney at law, Salans

CREATING A JOINT VENTURE

The partners of a joint venture (“JV”) always have specific objectives. The creation of a JV therefore cannot be standardized and demands a careful choice and adaptation of the available legal tools.

1. Certain JV can be created by the establishment of a set of “simple” contracts (contracts for supplies, services, licenses, etc.) without the necessity of a corporate structure. However, such is not always the case: the partners will often be led to create a common ad hoc structure, in addition to the general agreement that defines the context and the conditions of the partnership as well as the annexed agreements that are to be executed.
2. If the JV will be an autonomous and sustained profit center, the partners will opt for the creation of a common subsidiary company and, to that purpose, will most often choose the simplified corporate form known as the “société par actions simplifiée” (“SAS”). This corporate form offers a large amount of freedom in the organization of management and the conditions for the admission or withdrawal of a partner.

The by-laws of an SAS can validly provide for (i) clauses of first refusal, (ii) tag-along and drag-along rights, (iii) qualified voting majorities required to make certain decisions, (iv) ad hoc decision-making bodies, and (v) a right of withdrawal or a procedure for the expulsion of partners.

The inclusion of such provisions in the by-laws is important because it ensures their enforceability against third parties and their full legal effectiveness. The partners remain free, in order to preserve the confidentiality of such clauses, to include them in a shareholders’ agreement separate and apart from the by-laws.

3. If the JV has as its sole purpose the pooling of resources and/or the provision of services to the parties, the parties can instead create a “groupement d’intérêt économique” (GIE) (grouping of economic interests).

While the GIE has corporate personality, its purpose is not to generate profits but rather to realize savings. In comparison to the SAS, its principal advantage is fiscal transparency. However, the members of the GIE remain jointly and severally liable for the debts of the GIE with respect to third parties.

4. Finally, particularly when the JV is intended to be of limited duration or is established only for the implementation of a specific project, the partners can create a “société en participation” (SEP), for which they can freely define the operational rules.

This structure, which has the attributes of a true company (capital contributions, partners’ participation in the profits, and in the corporate life), does not possess corporate personality and does not have its own assets.

Furthermore, the SEP does not have to comply with any registration or publication requirements and it remains generally concealed with respect to third parties (with, however, the exception of the tax administration). The constitution and dissolution of an SEP are thus simplified.

The SEP is managed by one or several managers who transact business in their own names with respect to third parties. The other members of the SEP are not bound with respect to these third parties.

The French judicial arsenal thus offers a large range of structures, adaptable and diversified, that readily allow the implementation of all joint venture projects.

III. Multiple legal structures tailored to your needs

The choice of legal structure depends on the investor's strategy. This choice will affect the company's legal status, taxes, assets and labor relations.

III.1. Limited liability companies: most common in France

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 rules governing companies have become much more flexible, with the introduction of simplified companies by shares (SAS), which have greater freedom to draft their articles of incorporation to suit their own purposes. The elimination of the minimum capital requirement for SARLs has also resulted in greater flexibility.

By the same token, French company law has kept step with modern technology: measures have just been adopted to allow meetings of boards of directors and supervisory boards to be held remotely (by video-conference or other means) except in cases where company bylaws stipulate physical meetings or where annual or consolidated financial statements and management reports are to be validated.

III.1.1. The three main types of limited liability companies

The company forms used most often are the société anonyme (SA), the société à responsabilité limitée (SARL) and the société par actions simplifiées (SAS). SARLs and SASs can be formed with a single partner [one-person SAS Unipersonnelle or one-person limited-liability company (EURL)], whereas seven partners are required for an SA. The SA is the most sophisticated type of French company and is able to make a public offering.

The SAS or SASU 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.

III.1.2. Approval of annual accounts

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

The decision to pass the accounts must be made no later than six months after closure of the accounts for the financial year and is imperative in order for the profits to be appropriated and any dividends distributed.

Any limited-liability company must file:

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

These must be filed with the office of the Business Tribunal within one month of the annual accounts being passed.

IN DETAIL*Comparison of the main forms of share companies in France*

	Société Anonyme à Responsabilité Limitée (SARL)	Société anonyme (SA) usual form (Board of directors)	Société par actions simplifiées (SAS)
Key advantages	Easy to set up and operate for a closed ownership structure.	Structured for “monitored delegation”. Organization of ownership.	At least one partner. Freedom of constitutional arrangements for relations with shareholders, management, structure and transfer of 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 5) Board of directors with 3 to 18 members and a statutory auditor.	At least 1 Chairman (individual or legal entity) and possibly a board with other members. The company can be represented by a person so empowered by the articles (CEO or deputies).
Director's status	A director/minority shareholder can also have an employment contract if certain conditions are met	The Chairman can also have an employment contract if certain conditions are met (work separate from company officer role, management hierarchy)	Same as an SA as regards simultaneously holding both company officer position and employment contract
Appointment and Dismissal of Directors	Decision of partners representing more than half the company shares. Compensation payable if done without due cause	Decided by the Board of Directors	Defined by choice in the articles of association
Minimum capital	None: sufficient capital to finance long-term needs. The amount is defined in the articles of association. Restrictions apply to issuing bonds. At least one fifth of contributions must be paid up capital and must remain so for a period of 5 years.	€37,000. Public offerings allowed if share capital is greater than €225,000. Half the capital must be paid up at the time of incorporation and must remain so for 5 years.	€37,000. No public offerings allowed. Half the capital must be paid up at the time of incorporation and must remain so for 5 years.
Contributions	Sweat equity allowed: 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)	No sweat equity allowed	Same as for SAs
Partners / shareholders	2 to 100 individuals and legal entities. At least 1 meeting per year: annual approval of the accounts, review of contracts by simple majority at Ordinary General Meeting	At least 7 (with at least one natural person). At least 1 meeting per year: annual approval of the accounts and ordinary decisions by simple majority at Ordinary General Meeting, changes to articles of incorporation require 2/3 majority at Extraordinary General Meeting.	At least 1 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 (since August 2, 2005)	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 articles; no obligation to hold an annual meeting of shareholders
Blocking minority	Extraordinary General Meetings: 33% + 1 vote for amendments to the articles of incorporation (from Aug. 2, 2005). 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 articles
Liability of partners / shareholders	Limited to contributions, except in civil or criminal suits	Limited to contributions, except in civil or criminal suits	Limited to contributions, except in civil or criminal suits
Transfers	Shares are transferable to third parties by majority of partners representing at least half of shares (articles may specify a larger majority) Registration tax: 5% from €23,000 of shares transferred, taken as a percentage of the shares transferred	Shares are transferable unless there is a clause requiring approval of new shareholders (registration tax: 1.10% of amount transferred) up to €4,000	Identical to SA
Auditors	Auditor necessary if company exceeds two of the three thresholds below: net sales over €3.1m; total balance sheet over €1.55m; more than 50 employees)	Statutory auditor required	Statutory auditor required
Tax regime	Corporate income tax	Corporate income tax	Corporate income tax

legal advice

Jean Fabrice Cauchy, certified accountant, manager of Isobel Audit Consulting & Vice president of the auditors company of Paris

THE ACCOUNTANCY RULES IN FRANCE

An obligation

It is an obligation by trade and penal law. The former makes it compulsory for traders:

- To book in a chronological way all movements having an impact on the patrimony of the company.
- To control through an inventory at least every twelve months the existence and the value of assets and liabilities of the company.
- To make year accounts at the end of the accounting year according to the accounting books and the inventory book. The year accounts include a balance, a profit and loss account and an annex.

The compulsory documents and books

It is compulsory by business law in France for every trader, whatever his tax status, to keep an accounting journal, an inventory book and a general ledger.

He must also establish a document with a description of the accounting procedures and methods used for his company.

• The Journal

Any movements having an impact on the patrimony of the company are booked, operation by operation, day by day, on the journal.

The latter is detailed through as many auxiliary books as the business requires (book of sales, of stationary costs, of general costs, of banks...)

In the whole accountancy process, every entry has to have a justification (invoice, bank voucher...). The proofs are sorted in the way the company prefers and kept for at least ten years.

• The inventory book

Every year the entries on the inventory book consist of the company's liabilities and assets. They are to be listed with their quantity and value at the inventory date. The year accounts also are entries: Balance, profit and loss and the annexes.

• The general ledger

The general ledger is a synthesis document regrouping all the accounts used.

Other obligations

The books and accounting have to be done in French.

The account numbers are defined by law and must be used for the bookkeeping, they are classified in seven classes :

- 1: Capital provisions and loans
- 2: Assets
- 3: Stock
- 4: Other balance accounts (such as vendors, clients, accruals...)
- 5: Bank and cash
- 6: Costs
- 7: Income

The year accounts and shareholder meetings of all limited companies (or companies having limited companies as shareholders) have to be published at the court of commerce and can be freely consulted.

Share capital companies (SA, SAS,...) have to appoint an auditor for 6 years to do a yearly due diligence. Other companies have to appoint one if they rise above at least two of the three following levels :

- Total balance €1,550 K (liabilities or assets),
- Turnover ex VAT €3,100 K
- Staff 50.

Of course these obligations are now mainly carried out using accounting software but the principles nevertheless remain the same.

In France we have regulations which ensure a high level of security in business between companies, with a clear will to simplify the formalities of the small business.

III.2. Additional, more flexible options are available

These are mainly general partnerships (*société en nom collectif*), non trading partnerships (*société civile*) and intercompany syndicates (*groupement d'intérêt économique*). 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 and fiscal transparency that make them attractive as subsidiary companies.

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

III.3. Incorporating as a European Company

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

In this case, your company benefits from a unique set of regulations and a unified system of management and disclosure of financial details.

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

IV. Acquisitions of companies and equity interests

French law makes full provision for business partnerships and takeovers.

IV.1. Acquiring equity in a company

Acquisition of an equity interest may be the result of an agreement between companies or an unsolicited bid to buy shares (hostile takeover bid).

IV.1.1. Administrative formalities: transparency required

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 5 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%, 33%, 50%, 66%, 90% and 95% of the shares or voting rights.

When buyers intend to acquire more than 33% 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.

IV.1.2. Prior notification to competition authorities of large-scale business concentration

Business concentration results from the following transactions:

- 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, concentration is authorized, however large-scale business concentration operations may require prior authorization from national or European authorities. Restrictions on concentration are intended to ensure that market dominance by a single company does not distort competition.

- Business concentration transactions require the authorization of the Minister responsible for the economy if:

- The aggregate sales of the companies concerned are more than € 150 million, excluding tax, and
- The aggregate sales of at least two of the companies in France are more than €50 million, excluding tax, and
- Sales remain below EU thresholds.

The notification procedure may take up to five weeks. However if the transaction is likely to distort competition, it may be referred to the Competition Council, which has three months to give its ruling. Notification is now possible for proposals still in the preparatory stage on condition that work be sufficiently far along to allow the authorities to undertake a meaningful examination of the project.

- The European Commission must be notified of concentrations if:

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

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

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

IV.2. Management lease as a temporary takeover option

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

This arrangement enables the lessee manager to operate a company without having to buy it. It 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 manager.

IV.3. Streamlined procedures for acquiring a company in difficulty

Legislation dated 26 July 2005 that entered into force on 1 January 2006 modified bankruptcy law in France including in particular procedures for the takeover of a company in difficulty.

With the introduction of a procedure affording protection before insolvency (*procédure de sauvetage*), measures can now be taken when a company's difficulties are such that insolvency seems likely. This procedure does not provide for the sale of all or part of company assets, for which liquidation proceedings are necessary.

Reorganization of the business (*redressement judiciaire*) can only take place when the company is insolvent, i.e., when its assets are not enough to cover liabilities. Following the reform, the sole aim of this procedure is to produce a plan that will enable the company to remain in operation, maintain jobs and reduce its liabilities. Any sale of assets must comply with liquidation procedures.

As a result, once a protection or reorganization procedure has been initiated, third parties may

submit to the administrator offers to enable the company to remain in operation, through the total or partial sale of business; such sales take place in keeping with liquidation proceedings.

Buyers must make their offers to the 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*).

IV.4. The acquisition solution preferred by judges

The courts prefer buyers offering the best prospects of keeping 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 operated autonomously remain in business, to preserve all or part of jobs relating to it, 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 court clerk's office 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, 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 troubled company and the assets will be sold to the highest bidders once the court proceedings have been completed.

V. Corporate real estate: meeting your needs

V.1. Short-term, low-cost solutions

V.1.1. Using the director's personal address for the company

As a general rule, a company is allowed to use its legal representative's personal residence for its registered office and to conduct its business there indefinitely. If the residence is rented, the landlord's written consent is required.

In towns with populations of more than 10,000 and in the Paris region, there are restrictions on using the director's personal residence for the company's business. These restrictions stipulate that the premises must be the director's principal place of residence and that the business done there must be conducted by the director and the other occupants of the premises only and there must be no reception of customers or merchandise at the residence.

If legislative or contract provisions rule out the use of the director's personal residence as the company's registered office, it is still possible to use the address for administrative purposes for up to five years. In this case, it is illegal to conduct any business activities on the premises.

V.I.2. Using a business center

A business center can be used as the company's temporary registered office. Business centers are specialized service companies that provide registered office addresses for other companies and rent them rooms for holding periodic board meetings. These centers also provide other services, such as answering telephone calls and secretarial services. A contract must be signed between the company using the address for its registered office and the owner or tenant of the premises.

V.I.3. Temporary manufacturing facilities

Companies can use temporary manufacturing facilities to train new employees and even start up their business while their new plants are being built. Many local governments offer such facilities to companies locating in their area. The leases run for up to 23 months and, in some cases, they come with a purchase option, subject to certain conditions.

V.I.4. Business incubators

Business incubators provide premises (offices, workshops, laboratories, common areas) for start-ups and enable them to share the costs of faxes, secretarial services, photocopiers, switchboards, training and database access. Business incubators also advise new companies on business development.

V.I.5. Short-term leasing options for business premises

Sub-letting: In its early stages, a company can sub-let premises from another company. If the host company holds a commercial lease, the lease must explicitly authorize the sub-let and the lessor must be asked to be a party to the sub-letting contract.

Short-term leases: Short-term leases are available with terms up to 24 months. The advantage of

such leases is that the term can be tailored to the tenant's needs; the drawback is that the tenant is not entitled to automatic renewal of the lease.

V.2. Long-term options

Several options are available, depending on the investors' needs.

V.2.1. The commercial lease is the most common formula

Manufacturing and trading companies generally sign commercial leases. Such leases are governed by strict legal provisions that protect the tenant's rights.

The statutory term is nine years, but the tenant can terminate the lease at the end of the third or sixth year. The tenant is legally protected against non-renewal or eviction, and the lessor must pay eviction compensation proportionate to goodwill and the right to the lease. Rent increases are capped. The lease stipulates the commercial purpose of the premises (activity), but the parties to the lease can agree to amend the lease to change the initial purpose or add another activity (despecialization).

The right to lease renewal extends to all companies incorporated in France, even when they are foreign owned. It does not extend to branches of foreign companies, unless provided for by a reciprocity clause in an international agreement.

V.2.2. A more flexible but less secure formula: the professional lease

Non-trading businesses may rent premises under the terms of "professional" leases, which do not offer as much protection for the tenant as commercial leases. The statutory term is six years with no early termination option, but companies have greater flexibility for negotiating the terms of their lease.

V.3. Purchasing property - several options available

V.3.1. Full ownership offers the greatest legal security

Foreign companies are entitled to buy commercial and industrial land and buildings from private-sector 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 assistance for real estate purchases may be available subject to certain conditions.

V.3.2. 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 communities may help companies obtain finance leases by arranging meetings with financing organizations. Government investment assistance in the form of discounts on finance lease payments is also available under certain conditions.

V.3.3. Construction of industrial buildings

Foreign investors can erect industrial and commercial buildings in France. Local zoning maps show where

construction is allowed and mayors have the power to authorize construction by issuing zoning certificates and building permits. Municipalities offer land-owners and other persons entitled to erect buildings a one-stop service for building permit applications.

V.3.4. Commercial buildings

The construction of stores, hotels and cinemas requires an occupancy permit, in addition to a building permit. A Commercial Zoning Commission or a Commercial Infrastructures Commission at the level of the département manages the application procedures for occupancy permits.

V.3.5. Acquiring premises through a real estate partnership (SCI)

A real-estate partnership 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. This solution protects the real-estate assets from the 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 income tax.

Investors should hire legal counsel to work out the details of such an arrangement.

IN DETAIL

Building permits

Building permit applications consist of a printed form and a portfolio of drawings and written documents that will enable the authorities to ensure that the application is fully compliant with zoning rules. Applicants must use the services of an architect

when preparing their applications. The relevant authority has one month in which to request further documents. The timescale for the procedure is between one and three months from the date of notification.

When planned construction work concerns a classified facility, the building permit application needs to include proof that an authorization application or a declaration has been filed with the prefecture.

VI. Simplified rules for classified facilities

Concern for preventing hazards, pollution and other nuisances means that preliminary administrative formalities are required before operating certain types of manufacturing plants called “classified facilities”. The classification determines whether facilities are subject to prior authorization or notification, depending on the scale of the hazard or nuisance that they cause.

The Seveso laws require supervision of high-risk establishments, such as petrochemical plants or storage facilities for toxic products and liquefied gas, where there are risks of fire, explosion or noxious gas leaks, etc.

Manufacturers operating such facilities must conduct a risk survey and identify hazards involved in their activities. In some cases, they must draw up internal emergency action plans and local mayors are notified of potential risks.

VI.1. Simplified authorization procedure

Administrative formalities have been streamlined in two ways:

- A single environmental protection authorization is issued for each manufacturing site;
- The Prefect is the only authority with the power to enforce this legislation, with the assistance of the technical staff from the Regional Directorate for Industry, Research and the Environment (DRIRE).

The Prefect’s decision is based on the findings of an enquiry, during which the public is notified and invited to comment (see local information and monitoring commissions and the permanent secretaries’ offices for the prevention of industrial pollution–SPPPI). The same notification rules are already in force for “Seveso” facilities. Two key documents in the report on a facility’s potential impact on a given area are the environmental impact study and risk study.

The Prefect’s order authorizing operations at the facility also sets out the operating requirements. In principle, this order should be issued no more than 8 to 12 months after the application is filed.

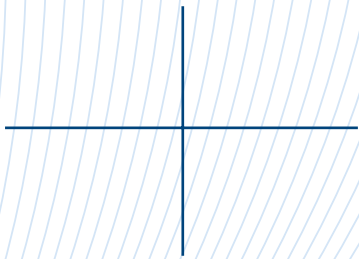
The Prefect may have his staff advise and help investors in the earliest stages of preparing authorization applications to ensure the legal security of major manufacturing projects.

VI.2. Logistics facilities

Logistics facilities are used to store merchandise. Accident prevention rules for indoor storage facilities require prior authorization if the volume of the buildings exceeds 50,000 cubic meters.

VI.3. The “polluter pays” principle

France applies the “polluter pays” principle to ensure that polluters bear the cost of their emissions and waste. However, the taxes levied are much lower than the actual cost of damage. France has also introduced measures to help companies invest in technologies that are less harmful for the environment.



French labor law

Chapter II Doing Business in France

FRENCH LABOR LAW

France is an industrial economy where labor laws are designed to both protect the interests of employees and match the economic priorities of business. Labor relations are governed by the Labor Code and by industry-specific collective bargaining agreements that reflect the practices of each sector. Employee profit-sharing and share-ownership plans are encouraged through income tax and payroll tax exemptions, while flexible working hours and manning levels are designed to suit production constraints.

I. Labor relations within a company

Labor relations within a given company are flexible. They are increasingly based on collective bargaining at industry level and at the level of individual companies, with employee and employer representatives playing a key role in ensuring flexibility.

IN DETAIL

Staff representation

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

→ In companies with more than 10 employees, staff representatives are elected by the employees to present individual and collective pay claims and to ensure compliance with labor laws.

→ A works committee must be set up when a company has 50 or more employees. The committee is elected for a period of four years by the employees to represent their interests when decisions are made about economic changes in the company on the one hand such as changes in work organization in particular, and social and cultural issues on the other hand. If the company has less than 200 employees, the employer may decide, after consultation with staff representatives, to opt for a single staff representation delegation which combines staff representatives and works committee in the same elected body.

Establishments with 50 or more employees must also set up a Joint Safety Committee (CHSCT) to involve the staff in training and other initiatives to prevent occupational risks and improve working conditions.

The power to negotiate and enter into collective labor agreements is reserved to union representatives. Where there are no union representatives, an industry-wide agreement may allow the employer to negotiate with elected staff 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 mandated for this purpose. The result of these negotiations must then be submitted to staff for approval by a majority of votes cast. Trade unions are also entitled to set up bargaining units within a company.

Only around 5% of French workers are unionized.

I.1. A freely negotiated work contract

The most common form of employment contract is an open-ended contract (contrat à durée indéterminée or CDI) that is generally written in French (although the CDI does not necessarily have to be a written document). 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 compensation, providing for geographical mobility or requiring employees to cover several professional areas, as well as non-compete clauses, clauses covering ownership of inventions and intellectual property rights, etc. Contractual clauses must not be contrary to the French Labor Code or to the industry-specific collective bargaining agreement that applies to the employer.

The company's actual activity, as stated in its articles of incorporation, determines which collective bargaining agreement is applicable.

An employment contract must stipulate the employee's compensation and job description, along with the working hours and place of work. The contract may also provide for a probationary

period, which is generally renewable for 3 months in the case of a managerial post. Compensation must be at least equal to the minimum wage stipulated by the applicable collective bargaining agreement and the statutory minimum wage, which was set at 8.44 gross per hour on July, 1st 2007, or €1,280.07 a month on the basis of a 35-hour working week, or €1,462.93 a month on the basis of a 39-hour working week with a 25% increase for overtime. The contract may also provide for additional benefits and a profit-sharing scheme.

French labor law also allows companies to hire extra staff to meet temporary needs. However, the law restricts the use of fixed term contracts and temporary agency workers to specific situations and generally sets a limit of 18 months on such arrangements. Short-term employment is an effective way for companies to meet their needs, but fixed term contracts cannot be used on a long-term basis to fill jobs that are related to the company's regular business. These types of contract must be in writing and must specify the reason why they are being made: Replacement of an absent employee; Replacement of an employee who has temporarily

IN DETAIL

Governing texts: hierarchy

Parties are free to substitute agreements reached through collective bargaining for certain legislative and regulatory measures so long as these are not contrary to 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 mutualization of training funds;

→ Company or plant agreements reflecting specific features of a company and its employees.

Under legislation adopted on May 4, 2004, lower-level agreements

reached or revised from this date may replace agreements at a higher level insofar as the latter do not expressly exclude this and on condition that requirements of industry-specific collective bargaining agreements are respected.

The law and these collective agreements are the references for employment contracts.



For more information:
www.legifrance.gouv.fr (conventions collectives / collective agreements)

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moved to part-time work; Gap before a new employee takes up their post; Temporary increase in the company's activities; Seasonal work; 'Standard' fixed term contracts [according to certain practices within a given profession].

Employers may propose changes to an employee's contract. Depending on whether this involves a substantial change or simply a change in working conditions, it may be obligatory to obtain the employee's consent.

A change to a contract may relate to an essential component such as pay, qualifications, and more generally, the work assigned to the employee. It may also relate to an element of the contract 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 fire the employee. For example: a change from day work to night work is a substantial change: a relocation of place of work from the North to the South of France is a substantial change to the contract, mobility clauses aside.

Simple changes to working conditions may however be imposed by the employer within the framework of their managerial authority. Refusal on the part of the employee does not lead automatically to termination of the contract but can constitute professional misconduct which the employer may penalize by firing him/her on the grounds of misconduct.

1.2. Simple online hiring procedures

A company can start hiring as soon as it has been registered.

France's national employment agency (ANPE) can help companies by publicizing their vacancies, identifying and short-listing applicants. The ANPE can also

offer and organize training courses for applicants. The central government and regional governments, which are responsible for vocational training, can also organize training courses to upgrade and improve the skills of certain categories of future employees to suit the needs of companies locating in France. Companies can obtain government assistance in the form of payroll tax reductions and grants for hiring certain categories of employees.

The administrative formalities involved in hiring employees have been streamlined with the introduction of a single reporting form for new hires (DUE). The employer must fill in the form before the new employees start work and send it to the local URSSAF office. The form can also be submitted on line.

1.3. Offering local employee status to impatriate managers

As a general rule, company directors cannot be bound to their company by an employment contract; the articles of incorporation stipulate the terms of their appointment, compensation and termination. However, some directors may sign employment contracts with their companies, subject to certain prohibitions (e.g., *directeurs généraux* of *sociétés anonymes*, chairmen of *sociétés anonymes* and *sociétés par action simplifiées* and directors with minority interests in a *société à responsabilité limitée*).

1.4. Layoffs on personal or economic grounds

Employment contracts can be terminated at the employee's initiative (resignation) or at the employer's initiative (dismissal). Except during trial periods, employers must provide real and serious reasons for dismissal, 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 business.

legal advice

Maître Véronique Dagan and Maître Davy Le Doussal, Attorney at law, practice DS AVOCATS

HOW EASY WOULD IT BE TO HIRE A NEW MEMBER OF STAFF ?

The process for hiring a new member of staff in France has been greatly simplified from an administrative point of view. However, some formalities still need to be carried out, for instance:

The Déclaration Unique d'Embauche (DUE – Single employment declaration). This must be sent within eight days prior to the new hire by post, fax, minitel (36 14 EMBAUICHE followed by the French department number) or via the Internet (www.due.fr) to the relevant URSSAF (French social security offices) for the employer. This declaration allows the employer to simultaneously complete various formalities:

- declare the hiring of the employee (declaration prior to recruitment)
- register the employer and the employee with the Social Security department (provided that the employee does not benefit from a relocation under a bilateral social security agreement)
- affiliate the employer with an occupational medical centre as well as the employment insurance body (ASSEDIC)
- request the organization of a recruitment medical, intended to verify the employee's physical capability to hold down the position and which must take place, at the latest, before the end of the probationary period.

Affiliation of the recruited employee to complementary pension funds. Within three months of their creation, all establishments or companies must send a request for affiliation to the complementary pension funds (ARRCO for non-executive staff and AGIRC for executives). On completion of affiliation, the company or establishment must send the relevant fund information about the employees recruited.

A declaration to the Labour Inspectorate by registered letter with acknowledgement of receipt, but only if this is the recruitment of a first employee.

Independently of these formalities, the company is also obliged to set up and maintain on its premises a **personnel register** containing certain mandatory information (employee's full name, job title and start date in the company, etc.).

In the case of the recruitment of a foreign national (with the exception of nationals of a member country of the European Union, the European Economic Area and Switzerland for whom special rules exist), the employer is also obliged to **check the validity of the employee's residency permit and work permit**. To do so, it must send the Prefecture that issued the residency permit, by registered letter, a copy of the residency and employment documents presented by the employee. If he so wishes, the employer may submit work permit requests to the relevant Direction Départementale du Travail (Labour Department) in order to obtain the said permits, however, it must then suspend this hire until the said permits have been obtained. The Labour Inspectorate in question must also be informed of the hire of a foreign employee.

Finally, there is no requirement to create a company or an establishment in France to recruit one or several employees, since a foreign company can directly enter into employment contracts with the said employees. However, in this case, the foreign company without an establishment in France must:

- contact the Bas-Rhin departement URSSAF to open an employer's account and pay social security contributions.
- contact the other labour organizations directly (complementary pension funds, Assedic).

1.4.1. Layoffs enable companies to adapt to market conditions

Layoffs can be individual or collective. Individual employees must be asked to attend a preliminary interview before they are laid off. The head of the company must meet with the works committee and consult with it about collective layoffs.

Individual layoffs and layoffs of two to nine employees can only become effective seven days after the interview date, or 15 days, in the case of supervisory personnel.

A “job preservation plan” (plan de sauvegarde de l’emploi or PSE) must be drawn up when a business with 50 employees or more decides to lay off 10 or more employees in a 30-day period. The plan must explain all action taken to avoid the loss of jobs, 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. It is then submitted to the staff representatives and the labor authorities.

The notification period for layoffs under a job preservation plan varies according to the number of employees concerned. Layoffs of up to 100 employees can take place 30 days after the labor authorities have been notified of the layoff plan. The waiting period is 45 days for layoffs of 100 to 249 employees and 60 days for 250 or more employees.

Severance pay for layoffs resulting from economic conditions is at least one-fifth of the employee’s monthly pay (including bonuses) for each year of service after two years and 2/15 of the employee’s monthly pay for each additional year beyond ten years.

To take an example, an employee with ten years of service and a gross monthly salary of €2,500 will be entitled to approximately €5,000 or two months’ pay.

Severance pay is subject to highly favorable conditions as regards taxation and social security. It is fully exempt from social security levies and, where it is associated with a job-preservation

plan, from personal income tax. Where it is not associated with such a plan, exemption from personal income tax applies to amounts up to twice the total gross salary received by the employee in the calendar year preceding termination of the employment contract.

Voluntary departures following job cuts, redeployment or reorganization, and refusals to accept substantial changes to employment contracts are treated as layoffs.

1.4.2. A member of staff can be dismissed for misconduct

Personal dismissal procedures can be initiated for misconduct on the part of the employee or conduct that is not actually delinquent, but nevertheless harms 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 that the employee is entitled to under the law or the relevant collective bargaining agreement. In principle, the notice period is two months for employees with more than two years of service.

Employees dismissed for personal reasons other than serious misconduct are entitled to severance pay equal to at least one-tenth of their gross monthly salary including bonuses for each year of service if they have more than two years’ service, this being augmented by one-fifteenth if service exceeds 10 years.

In the case of an employee with ten years service a monthly salary of E2,500 who is dismissed for personal reasons other than grave misconduct, the amount due will be one month’s salary.

Employees are not entitled to severance pay in cases of serious misconduct.

I.5. Retirement at 60

In principle, employees cannot be put in retirement before the age of 65. Employees pay into the statutory retirement scheme for a minimum of 40 years, or 160 quarters. This requirement will be progressively increased to 42 years by 2020.

The French government pays retirement pension benefits via specific benefit offices

II. Employee incentives: profit sharing and share-ownership programs

In addition to their wages and salaries, employees and corporate officers may be offered employee profit-sharing and share-ownership schemes that are attractive for workers and provide tax benefits for both employees and employers. The range of schemes available enables companies to set up compensation and benefit systems tailored

to their specific needs, including supplementary retirement and family benefits, stock options, corporate and intercompany employee savings/ share-ownership programs, etc.

Employee profit-sharing is obligatory in companies with more than 50 employees and in this case is referred to as participation, as opposed to voluntary profit-sharing, referred to as intéressement. Procedures for implementing the scheme are defined in an agreement between the employer and staff representatives. The sums accrued by an employee under a profit-sharing scheme cannot be accessed for 5 years except where access is brought forward. Favorable conditions apply to tax and social security charges on these sums.

Recent additions have been made to these provisions. It is now possible to make additional payments to supplement voluntary or mandatory profit-sharing premiums. These schemes are collective and individual arrangements are not permitted. The employer has complete control over the amount of money to be distributed and is not obliged to maintain the same figure

IN DETAIL

Staff incentives

FOR YOUR BUSINESS		
	Social security charges	Tax
Mandatory profit sharing	Exempt	<ul style="list-style-type: none"> • Deducted from taxable income • Exempt from levies to finance apprenticeships, training and housing • Recognition of a provision for investment equal to 25 or 50%, depending on the circumstances
Voluntary profit sharing	Exempt	<ul style="list-style-type: none"> • Deducted from taxable income • Exempt from levies to finance apprenticeships, training and housing • Recognition of a provision for investment equal to 50% of the employer contribution supplementing entitlements, subject to certain conditions, provided profit-sharing is within the framework of a savings/share ownership plan.

FOR YOUR EMPLOYEES		
	Social security charges	Tax
Mandatory profit sharing	<ul style="list-style-type: none"> • Exempt from social security charges • Subject to CSG and CRDS levies (after 3% abatement)* • Income generated by the plan subject to CSG and CRDS levies (no abatement) and 2.3% social levy 	Not taxable (except interest on frozen accounts received annually and not reinvested)
Voluntary profit sharing	<ul style="list-style-type: none"> • Exempt from social security charges • Subject to CSG and CRDS levies (after 3% abatement) 	Not taxable provided profit-sharing is within the framework of a savings/share ownership plan.

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for the following financial year. Supplements to mandatory profit-sharing are not accessible immediately, unlike supplements to profit-sharing (immediately available or transferred to a savings/share-ownership scheme).

Provision has also been made for project-based voluntary profit-sharing for the benefit of some or all of the employees of different companies working together on a clearly identified, coordinated project.

Companies that offer savings/share-ownership schemes must present employees with a booklet setting out the provisions of the scheme when they sign their contract of employment.

III. Organizing work hours: greater flexibility

France offers very flexible working organization and hours to enable companies to make the best use of their plant and equipment, and thus increase productivity.

III.1. 35-hour week: greater flexibility since 2003

Statutory working hours in France are 35 actual hours worked per week, and these hours are the basic reference.

Maximum working hours are 10 hours per day and 48 hours per week. Over a 12-week period, the maximum is an average of 44 hours per week (see adjustable working hours).

Hours worked in excess of statutory working hours are counted as overtime. Overtime pay is 25% more than regular pay in all companies as from October 1, 2007 (except where a collective agreement provides for a lower rate, which may not in any case be less than 10%) with up to 20 employees, and 25% more in other cases failing an industry-wide agreement. The regulatory limit on overtime is 220 hours per year, which increases annual working hours to 1,827, which works out to 39 hours per week for 47 weeks. This limit on overtime may be exceeded by employees who

IN DETAIL

Working hours in France

	legal provision	Standard overtime options		Special overtime options	
Companies concerned	All companies	Small companies ⁽¹⁾	Large companies ⁽²⁾	Small companies ⁽¹⁾	Large companies ⁽²⁾
Working hours	35 per week or 1,607 per year	Limit set by collective bargaining agreement or statutory annual limit of 220 overtime hours or 39 hours per week over full year = 1,827 h/year		Maximum of 44 hours per week (over 12 weeks) unless there is an agreement providing for exceptions	
Administrative formalities	None	None: simply inform the Works Council and employment inspector		Staff representative must be consulted. Agreement of employee is required	
Overtime pay rates ⁽³⁾	Not applicable	Rate provided for in collective agreement for the business or sector or 25% for the 36 th to the 43 rd hour or 50%		Same as standard overtime limit	
Statutory extra time off	Not applicable	None	50% for each hour after the 41 st hour worked (=1/2 hour per overtime hour over 41 hours)	50% after statutory work week (=1/2 hour per overtime hour over 36 hours)	100% after the statutory work week (= 1 hour per overtime hour over 36 hours)

⁽¹⁾ Small companies have up to 20 employees.

⁽²⁾ Large companies have more than 20 employees.

⁽³⁾ If provided for in the collective bargaining agreement, time off in lieu of overtime pay is a possibility. When extra time off is required by law, time off in lieu of overtime pay must be added to it.

so wish, with the agreement of their employer, under a collective agreement (*régime des heures choisies*).

In addition to extra pay, working overtime may also give employees a statutory right to extra time off. Extra time off in lieu of overtime pay is also a possibility. Time off in lieu of overtime pay must be added to the statutory time off entitlement.

The 35-hour week does not apply to executives, to whom regulations on night work, daily and weekly rest periods, and days off do not apply either. By the same token, management personnel who are free to organize their own work and non-management employees working off the premises, such as sales representatives, maintenance technicians, etc., may be subject to agreements based on a basic number of hours or days worked; such agreements must be in writing. Management personnel free to organize their own work are offered annual packages that stipulate the annual number of days worked,

with a maximum of 218 days and 13 hours per day, i.e., a total of 2,834 hours per year.

III.2. Major reductions in social security contributions

Companies of all sizes and in all industries have been entitled to reductions in social security charges on low wages since 2003.

The reductions are calculated according to the hourly wage rate per employee and per month. They can represent up to 26% of gross wages for an employee earning the statutory minimum wage. Average charges to employers for minimum wages are between 17 and 19%, depending on the size of the business.

Overtime hours and pay are no longer factored into calculation of reductions in charges to employees for minimum wages, neutralizing the impact of the increase in pay.

Charges to employers for overtime are diminished by set amounts of €0.50 to €1.50 per hour.

IN DETAIL

Important new incentives for longer hours for your employees

Under legislation which came into force on October 1, 2007, important incentives are offered for employees to accept overtime: overtime pay is exempt from social security charges and income tax.

Reductions in employee contributions may represent up to a maximum of 21.5% of an employee's total compensation.

For example:

A non executive worker earning €3,000 gross per month works 30 hours of overtime (gross monthly salary of €19.78).

Overtime is paid at 25% which is a gross monthly salary of €3,741.75.

Without overtime, your employee would have earned a **net monthly salary of €2,361.**

Without reductions in social security charges but counting the 30 hours of overtime, your employee would have earned a **net monthly salary of €2,955.20.**

With reductions in employee contributions and with 30 hours of overtime, your employee earns a **net monthly salary of €3,111.**



For more information:

Act n°2007-1223 dated August 21, 2007

Decree 200761380 dated September 24, 2007

Circular dated October 1st, 2007

www.minefe.gouv.fr/tepa/index.htm

III.3. Staggering paid leave

Employees in France are entitled to five weeks of paid vacation. The employer can refuse to let an employee take vacation time if the workload will not allow it. However, employers must let employees take at least four weeks of vacation between May 1 and October 31. In addition to paid vacation, there are 10 legal holidays and personal leave days (marriages, births, deaths).

III.4. Without special dispensation, Sunday is a day off

Employees must be given a weekly day of rest lasting at least 24 hours on Sunday. However, there are many exceptions to the Sunday rule. Permanent exemptions are granted when warranted by the nature of the company's business (e.g., manufacturing firms using or producing perishable goods, factories operating around the clock, maintenance firms, etc.)

The government may also grant temporary exemptions, for example when manufacturing firms are operating with extra shifts.

Extra compensation is paid to employees who work on Sunday and they are still entitled to a weekly day of rest.

III.5. Organizing work time over the year without overtime costs

Companies have several ways of adjusting working hours to suit their business requirements without incurring extra payroll costs.

III.5.1. Shift work and production cycle work do not entail additional payroll costs

Shift working, with three eight-hour shifts per day, can be instituted by a company-wide agreement. The exemption from the Sunday rule may be automatic or may require administrative authorization, depending on the activities

IN DETAIL

Working arrangements

	Conventional shift work	Alternating shifts
Principle	Fixed round-the-clock shifts ⁽¹⁾	Shifts longer than normal working hours
Example	Shift A: 6 am - 2 pm Shift B: 2 pm - 10 pm Shift C: 10 pm - 6 am (3 eight-hour shifts)	Shift A: 6-10 am/2-6 pm Shift B: 10 am-2 pm/6 pm-10 pm Or else Shift A: 6 am - 2 pm Shift B: 9 am - 5 pm Shift C: 12 pm - 6 pm
Average working 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
Example	Shift A: Monday to Friday Shift B: Tuesday to Saturday	Weeks 1 and 2: 44 hrs Week 3: 38 hrs Weeks 4 and 6: 28 hrs (average over cycle: 35 hrs)
Average working week	35 hours	average of 35 hours over cycle

⁽¹⁾ With special arrangements for working on Sunday.

concerned. Production cycle work is used to manage variations in activity over short periods (8 to 12 weeks). 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 extra time off, as long as the statutory working hours are not exceeded on average over the cycle.

III.5.2. Working hours can be averaged over the year without any increase in pay

If the company's business fluctuates in a predictable pattern over the year, working hours can be increased or cut back during certain periods without incurring extra costs, subject to statutory limits.

IV. An environment that supports employee development

The quality of employee social cover in France provides your staff with a favorable 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);
- Old-age pensions;
- Family allowances;
- Workers' compensation.

The system is backed up by compulsory unemployment insurance and supplementary retirement 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, in particular the United States and the United Kingdom.

IV.2. Social contributions relieve the company of responsibility in case of sickness, retirement and unemployment

The employers' and employees' charges are collected by URSSAF. The employers' share of charges represents at most 42% of gross wages and the employees' share represents about 20%. Employer social security charges are substantially lower on low wages: depending on the size of the company (more or less than 20 employees), it varies from 17% to 19% of the legal minimum wage (SMIC).



Favorable conditions for employees in international mobility

FAVORABLE CONDITIONS FOR EMPLOYEES IN INTERNATIONAL MOBILITY

The law of July 24, 2006, has considerably improved immigration and working conditions for foreign nationals working in France, and for their families. In order to favor economic immigration, the law introduced the first residence permits that are valid for several years and has streamlined administrative procedures.

From a social security and tax point of view, expatriate staff can now benefit from measures that are aimed at offsetting the costs of expatriation.

Immigration procedures in France depend on the type of professional activity being carried out by

the foreign national in our country. In this respect, distinction should be made between a salaried employee and a company director (“commerçant” status). This category includes, for example, independent “commerçants”, trades people (“artisans”), or persons having the authority to make company decisions (company directors). The latter category concerns, in particular, the director of a “société à responsabilité limitée” (SARL – limited liability company), the CEO of a “société anonyme (SA – business corporation), or individuals (“personne physique”) who have the authority to direct a foreign company in France (representative of a branch or a liaison office).

IN DETAIL

Flexible conditions for salaried employees from the European Community (EC) and the European Economic Area (EEA)

EU, EEA and Swiss nationals are free to travel and work in France without a visa, residence permit or work permit.

During a transitional period of up to 7 years, nationals from the new EU member states must obtain a residence permit to stay in France for more than 3 months (with the exception of citizens of Cyprus and Malta, who can travel and work in France immediately). An EU residence permit valid for up to one year is automatically issued on presentation of an employer's declaration certifying the term of employment. Residence permits for stays of more than

12 months are valid for 10 years. Applications for this permit should be filed with the prefect and the municipality (“mairie”) of the place of residence, within three months of the salaried employees' arrival. The procedure is free of charge (not including salaried activity). The applicant must provide proof of identity, marital status, address in France, professional activity (employer's certificate or service certificate), and a medical certificate from an approved doctor. The applicant is issued with a receipt that is valid for a 3 month period, pending the issue of their EU national residence

permit. Issuance of a residence permit can only be refused on the grounds of public order.

EU citizens must register with the municipality of their place of residence within three months of arriving in France. Citizens from the new EU member states must still obtain a work permit to work in a salaried capacity. Since May 1st, 2006, existing unemployment cannot give rise to objection regarding the employment of these nationals in any of the 152 sectors “under strain” (shortage of manpower) listed in a circular dated December 20, 2007.

With a view to improving France's economic attractiveness, the law has simplified administrative procedures concerning resident permits for commercial business activities carried out by foreign nationals, and has also abolished trade cards "cartes commerçant". Therefore, setting up and running a company in France has now become much easier and much quicker (see "Expert Advice" page 40).

I. Short stay visit by a foreign employee

Admission and residence in France requires a visa, except for special cases.

The main visa categories are as follows:

I.1. Short-term visa

I.1.1. Circulation visa

The circulation visa is a short stay visa for people who wish to maintain business relations in France, without actually residing in the country. The circulation visa is issued for 1 to 5 years and authorizes maximum stays of three months per semester.

To receive this visa, proof of business activity in France is required.

I.1.2. Short visa for stays of up to 90 days (Schengen states)

This visa enables travel throughout the Schengen states, but it does not constitute a work permit. Foreign companies sometimes need to send employees to France for a secondment of less than three months.

It is therefore necessary to distinguish the reason for the visit:

- Your employee is traveling to France on a business trip (i.e. to meet clients). Except in special cases, a short visa is sufficient.
- Your employee is traveling to France on a short-term assignment (i.e. to train, advise, or provide technical assistance or expertise to the company in France).

A temporary work permit is required as well as the visa. The deciding factor is the element of

providing a service and/or effective participation in the host company and/or being under the orders of the host company.

The company sends a completed temporary work permit application to the French regional employment agency (Direction Départementale du Travail, de l'Emploi et de la Formation Professionnelle-DDTEFP) at least three weeks before the arrival of the foreign employee. The temporary work permit is valid for a maximum of 90 days and cannot be renewed: the periods of validity for the work permit and the visa must therefore correspond.

I.2. Long-term visa

Stays of more than three months require a residence permit specifying the nature of the stay: salaried employee, scientific activity, student, visitor, etc.

II. Working is made easier for foreign citizens

II.1. Temporary residence permits authorizing salaried professional activity

In principle, a work permit is required to carry out a professional activity in France.

Some residence permits allow residency in France and also act as work permits (single residence/work permit). This is the case for "expatriated salaried employee", "employee", temporary worker", "scientific", "student" and the "expertise and skills" temporary residence permits.

II.1.1. The "expatriated salaried employee" temporary residence permit

This is a new residence permit; for the first time, employees that are seconded or expatriated to France as part of an inter-company transfer can be issued with a residence permit that is valid for 3 years.

The "expatriated salaried employee" residence permit is subject to several conditions; in particular, the employee's gross monthly salary must be equal to a minimum 150% of the SMIC (French statutory minimum wage), which amounts to €1,920 as of July 1st 2007.

legal advice

Mr. Claude Michel, Cabinet Helma

IS IT EASY FOR A FOREIGN NATIONAL TO SET UP A COMPANY IN FRANCE?

Setting up a company in France does not require any specific formalities for EU citizens (including those from new EU member states), or those of Iceland, Lichtenstein, Norway or the Swiss Confederation.

For other foreign nationals, regulations apply to enable foreign company directors to declare their company at the Companies Register (Registre du Commerce et des Sociétés – RCS) and thereby register their company.

Previously, two authorization procedures existed: firstly, an authorization to carry out a business activity which required the issue of a trade card, and secondly an authorization of residence which required the issue of a residence permit bearing the specification “commerçant” (business activity). The trade card for foreign nationals has been phased out as from 24 July 2006.

At present, as far as your investment project is concerned, you only have to distinguish between two possibilities:

You wish to set up a company in France but do not intend to reside in the country (entrepreneur directing a company in France but residing in another country): you must simply declare your company to the Prefect of the department where you wish to carry out your business activity. The declaration can be submitted by the foreign national or their mandate (in this case a mandate must be elected) by recorded delivery or by hand. The documents to be submitted with the declaration are: proof of the applicant’s civil status, a copy of the applicant’s “*extrait de casier judiciaire*” (criminal record) or equivalent document in the country of origin, copy of the articles of association of the company and the document nominating the company director. The Prefect issues a receipt of declaration specifying the identity of the applicant and the status option which they have chosen in order to carry out their business activity, as well as the company name, address and business

activity. This procedure is simple and quick and allows a receipt of declaration to be obtained within a maximum of 15 days (or immediately if the declaration is delivered by hand).

You wish to carry out your business activity and reside in France: you must obtain a temporary residence permit bearing the specification “business activity” (“*commerçant*”). There are two possibilities: either you are residing outside of France (most frequent case) or you are already residing in France with a residence permit that does not authorize business activity.

In the first case, the request is filed with the French consular authorities in your country of residence. It consists of a request for a long-stay visa and a presentation of the business activity that you wish to carry out in France. In the case of a new company being set up, the consular authorities consult the TPG as to the economic viability of the investment project. If the project involves insertion into an existing business activity, the applicant must provide the consular authorities with proof of remuneration that is equivalent, at least, to the statutory minimum wage (SMIC).

The consular authorities may then issue a long-stay visa to enable your entry into France. You must apply to the Prefecture of your place of residence for a residence permit as a trader (business activity work permit “*commerçant*”) within two months of your arrival in France.

In the second case, you must apply for a change of status at the Prefecture of your place of residence.

The general employment situation in France will not determine whether or not the holders of temporary “expatriated salaried employee” residence permits will be employed. In other words, the employer is not obliged to justify their recruitment in terms of the labor market and employment levels.

Holders of this type of residence permit are not subject to the “contrat d’accueil et d’intégration” (integration contract).

Also for the first time, the employee’s family (spouse and children) can apply for the “vie privée et familiale” (private and family life) residence permit, if the employee has been fully resident in France for at least 6 months. This residence permit enables them to access the labor market.

II.1.2. The “employee” temporary residence permit

This type of residence permit is geared towards foreign nationals that are employed in companies in France, for a period of one year or more.

It is valid for one year and can be renewed.

Holders of this type of residence permit are subject to the “contrat d’accueil et d’intégration” (integration contract). This contract is a framework by which the French state provides foreign nationals with access to individual rights and French language training.

II.1.3. The “temporary worker” temporary residence permit

This type of residence permit is issued to employees working in France for a period of less than one year.

IN DETAIL

Main reference texts

General regulation

- **French code of admission and residence of foreign persons and the right to asylum**

- **Law n°2006-911 of July 24, 2006**
Governing immigration and integration published in the Journal Officiel on July 25, 2006

- **Directive n°96/71 EC dated December 16, 1996**
Governing the secondment of workers to provide services

Regulation concerning commercial business activity and company directors

- **Decree n°2007-912 of May 15, 2007**
Concerning foreign nationals carrying out business activities in the commercial, industrial and trades sectors in France, and in modification of the French code of admission and residence of foreign persons and the right to asylum (regulatory part)

- **Decree n°2007-1141 of July 26, 2007**

In application of article L.122-1 of the French commercial code concerning non-resident foreign nationals carrying out commercial, industrial or trades activity on French territory

- **Ministerial order of September 12, 2007**

Specifying the list of documents to be produced for the issue of a temporary work permit authorizing commercial, industrial or trades activities

Regulation concerning employees

- **Decree n°2007-801 of May 11, 2007**

Concerning work permits for foreign nationals, the specific contribution to be paid in the event of employment of a foreign national not holding a work permit and in modification of the French labor code (regulatory part: Decrees by State Council)

- **Ministerial order of October 10, 2007**

Specifying the list of documents to be provided for applications for a work permit

- **Circular n°DPM/DM12/2007/323 dated August 22, 2007**

Concerning work permits

- **Inter-ministerial circular dated March 15, 2006**

Completing circular n°143 dated March 26, 2004, concerning the issue of work permits and residence permits for foreign management or executive level employees of French subsidiaries of international groups, and their families

- **Circular dated December 20, 2007**

Concerning work permits issued to citizens of new European Union member states during the transitional period.

The permit is valid for the same period as the employment contract, within a limit of 12 months. Since holders of this type of permit are resident in France on a temporary basis, they are not subject to the integration contract.

II.1.4. The “scientific activity” temporary residence permit

This residence permit is issued to foreign nationals who are engaged in research activities or teaching at a university level.

The applicant must hold a convention issued by a scientific organization or an approved university, certifying their status of scientist and the nature and term of their stay. A separate work permit is not required.

The convention must carry a visa from the French consular authorities in the applicant’s country of origin.

The permit is valid for one year and can be renewed for a period of one to four years maximum.

Holders of this type of residence permit are not subject to the integration contract.

II.1.5. The “student” temporary residence permit

This type of permit is issued to foreign nationals studying in France who are financially self-sufficient. It allows the student to carry out a secondary professional activity equal to up to 60% of the legal working year; a work permit is not required, a declaration filed with the Prefecture of the place of residence submitted by the student’s employer being sufficient.

This type of residence permit is valid for one year and can be renewed for a period of one to four years maximum.

Holders of this type of residence permit are not subject to the integration contract.

II.1.6. The “skills and expertise” residence permit

This is a new multi-year residence permit (3 years). It can be issued to any foreign national whose skills and expertise contribute in a significant

and lasting way to the economic development or intellectual, scientific, cultural, humanitarian or sporting progress of France and the applicant’s home country.

The permit authorizes a salaried activity that corresponds to the applicant’s project. Holders of the “skills and expertise” permit are not subject to the integration contract and their employment cannot give rise to objection on the grounds of employment levels.

In addition, members of the foreign national’s family (spouse and children) are fully eligible for the “private and family life” residence permit and can automatically access the labor market.

II.2. Your salaried employee’s arrival in France

Salaried activity in France is subject to French labor regulations, particularly concerning statutory working hours, payment of social security contributions (in the absence of applicable agreements) and equal rights.

II.2.1. Standard admission procedures

→ Definition of scope of application

This procedure applies in the event of inter-company transfers.

It also applies when a company based in France wishes to recruit a foreign national residing outside of France to come and work on French territory.

→ Procedures (see boxes n°2 and n°3)

The employer files an application for admission with the DDTEFP (the local employment office) at least two months prior to the start of the term of employment. The documents submitted with the application should be written or translated into French.

The DDTEFP studies the application and decides whether or not to issue a work permit. The employer should inform the ANAEM (National Agency for the Reception of Foreigners and

IN DETAIL*Application for a work permit*

The application for a work permit is filed with the foreign manpower department of the local employment office (Direction départementale du travail, de l'emploi et de la formation professionnelle-DDTEFP).

The decision to issue or refuse an application for a work permit lies with the foreign manpower department of the DDTEFP following consultation of the application file.

Several elements are taken into consideration when studying the application.

Criteria for the issue of a work permit

In order to decide whether to refuse or accept the application for a work permit, the foreign manpower department examines the following criteria:

- the employment situation in the relevant sector and in the geographical zone, taking into account the specificities of the position being offered and the employer's previous attempts to fill the position with the assistance of the local ANPE (unemployment office) to recruit a job seeker;
- the appropriateness of the foreign applicant's qualifications and experience for the position being offered;
- the employer's adherence to French labor and social security legislation;

- the employee's adherence to 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 is at least equal to the French statutory minimum wage (SMIC);
- steps taken by the employer to ensure that the foreign national is able to live under normal living conditions.

The employment situation

The administrative authorities may refuse to issue a work permit if they consider that the level of unemployment is too high.

The unemployment situation does not apply

Foreign nationals who apply for the "scientific activity", "trainee" or "skills and expertise" residence permits, follow a specific procedure which does not constitute a request for authorization to work.

In addition, "EC-long-stay residence", "expatriated salaried employee" temporary residence permit, "private and family life" and "student" (up to a maximum of 60% of the legal annual work period) residence permits automatically confer the right to

work in France. Holders of these types of residence permits are not required to have a separate authorization to work in France.

The employment situation cannot give rise to objection regarding applications for work permits for salaried employees or temporary workers, submitted by foreign nationals working in a professional sector or a geographical area which presents a shortage of manpower and which is included in the list drawn up by the administrative authorities (some professions in the building sector, hotel sector, restaurant and food sectors, agriculture, mechanical industry, processing and cleaning industries...). These professions are specified in a ministerial order.

Application for a work permit

The application is made by the employer.

Documents to be submitted

Several documents must be provided with the application for a work permit (see box n°2).

Length of procedure

The DDTEFP's decision is normally given within 2 months of the completed application being filed. In the absence of a reply within this period of time, the application is generally deemed to have been rejected.

Migration) of the date of arrival of the foreign national in France in order to set a date for the medical visit.

The foreign national can then enter France and attend the ANAEM medical visit.

He then goes to the Prefecture of his place of residence with his medical certificate, a copy of the employment contract certified by the DDTEFP, his passport and visa.

Depending on the term of the employment contract, the residence permit issued will be one of the following:

- a “temporary worker” temporary residence permit for employment contracts of less than one year;
- an “employee” residence permit for employment contracts of over one year;
- an “expatriated salaried employee” residence permit for inter-group transfers.

II.2.2. Streamlined procedures for “high level management staff and senior executives”

This procedure has the advantage of being quicker than standard procedures (roughly one month from the date the application is filed to the start of professional activity). The applicant has dealings with the regional ANAEM only, which then takes charge of the application and liaises with the relevant administrative authorities.

These streamlined procedures apply to high level management staff and senior executives in the case of inter-group transfers.

For a trial period, these streamlined procedures are also available for foreign employees seconded by their company to a French company based in certain regional departments.

→ Definition and scope of application

These streamlined procedures are available for high level management staff and executive employees who wish to work in France as employees of French companies belonging to international groups, provided that they have been employed for at least 6 months in a company belonging to the same international group.

- **senior executives:** employees that are free to organize their own working schedule. They have the power to make decisions independently and receive the highest levels of compensation paid by the company;

- **high level management staff:** employees who are paid a gross monthly salary equal to or more than €5,000.

→ Procedures

The employer files a transfer application with the relevant ANAEM regional representative for the host company’s location.

The ANAEM immediately transfers the application to the DDTEFP which gives a decision on the work permit in terms of labor regulations within 10 days.

The DDTEFP sends the certified employment contract by international courier to the consulate authorities and the Prefecture.

The management executive applies for a visa and residence permit in his country of origin.

When the consular services receive the employment contract duly certified by the DDTEFP, they summon the management executive to carry out visa application procedures.

As soon as the date of the management executive’s arrival in France is known, the ANAEM informs the Prefecture which then begins to prepare the residence permit.

Upon arrival in France, the management executive undergoes a medical examination at the ANAEM and receives his residence permit either from the ANAEM or the Prefecture of the location of the company.

Insofar as this procedure is available for the inter-company transfer of salaried employees, the latter are issued with a temporary “expatriated salaried employee” residence permit.

II.3. Seconded employees providing transnational assistance services

A foreign company may transfer employees to France on a temporary basis in order to provide assistance services.

Seconded employees providing assistance services remain under contract with the foreign company before, after and during the term of their secondment to France.

These employees must hold a work permit.

Employers based outside of France who wish to transfer employees to France, should make a preliminary declaration to the regional employment inspector of the location where the service is being provided.

If the secondment is for a period of less than 3 months, the employee should hold a temporary work permit bearing the specification “temporary worker”.

The company based abroad, or the mandated French company, undertakes admission procedures with the regional DDTEFP of the place of employment.

II.4. Change of student status

If you wish to recruit a student at the end of their period of study, you should provide them with the relevant documents to apply for a work permit. When their “student” residence permit expires, students holding a diploma equivalent to a master degree can apply for a temporary, non-renewable, residence permit that is valid for 4 months.

During this period, the student may carry out any salaried occupation equal to 60% of the statutory working period.

However, on signing a contract relating to their qualifications, offering at least 150% of the statutory minimum wage (SMIC), the student can work full-time and apply to the Prefecture for a change of status.

IN DETAIL

Application for admission of a foreign employee into France

Main documents to be submitted by the employer to the relevant regional DDTEFP as part of an application for a work permit for a salaried employee that the employer wishes to recruit or transfer 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 salaried activity to be carried out in France ;
3. a valid K bis document if the employer is a corporate entity (personne morale); a valid K, a tradesperson’s card or, failing this, a tax form if the employer is an individual (personne physique) ;
4. documents in proof of the link between the company based in France

and the company based abroad in the event of an inter-company 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 salaried activity in question; in the event that the exercise of the salaried activity is subject to specific regulatory conditions, proof that these conditions are properly fulfilled;
7. in the event that the employment situation gives rise to objection, documents in proof that efforts were made to recruit a candidate already

available in the labor market.

In the event that the employer is based abroad, the application should also include the following documents :

8. certificate of employment from the company based abroad or initial employment contract, showing at least six months’ service ;
9. certificate of secondment or signed statement of the request for registration with the French social security department ;
10. where applicable, a signed statement of the request for registration with the paid leave fund ;
11. where applicable, copy of the letter of mandate addressed to a person established in France in order to carry out the administrative procedures on the employee’s behalf.

II.5. Trainee staff

It is possible to send staff on training periods of 12 months or less in a company in France.

A training agreement between the host company, the employer and the trainee is required.

The relevant regional DDTEFP for the location of the company certifies the training agreement and checks that the trainee is financially self-sufficient. A temporary work permit is not required because the trainee is not a salaried employee.

III. Health cover for staff in France

Your employees may opt for continued cover by the health and social security system of their home country, if a reciprocal agreement exists between the home country and France.

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

III.1. Territorial principle: your employee pays social security contributions in the country of employment in the absence of a reciprocal social security agreement

The French social security system is based on the territorial principle: 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 protection plans in their home countries.

III.2. International agreements and EU regulations provide for exemptions from French social charges

For citizens of European Economic Area countries and Switzerland, the EU regulation n° 1408/71 of June 14, 1971, applies and provides the possibility of maintaining social security cover in the country of origin, under certain conditions.

Citizens of these states can benefit from this option for a period of 12 months which is renewable for a further 12 months maximum. After that, they must register with the health and social security system of the country where they work.

European Union citizens need to obtain E101 forms (continuing cover for expatriates) or E102 (extension of E101) and a healthcare entitlement certificate (E111). Citizens of countries that have reciprocal agreements with France can remain with their home country's social cover system for the time period provided by the agreement. At the end of this period, the employees either register only with the system in the country where they work (i.e. France), or they maintain

IN DETAIL

Taxes and charges to be paid to the ANAEM for the admission of a foreign salaried employee into France

Employers of foreign manpower must pay a flat rate charge ("redevance forfaitaire") to the ANAEM (for foreign nationals holding an employment contract for a period of less than one year and for seasonal workers), plus a standard contribution (for foreign nationals holding an employment

contract for a period of more than one year).

For a contract for a period of one year or more:

→ €893 (€725 for the standard contribution - €168 for the flat rate charge), if the gross monthly salary is less than or equal to €1,525.

→ €1,612 (€1,444 for the standard contribution + €168 for the flat rate charge), if the gross monthly salary is more than €1,525.

For a contract for a period of less than one year:

→ €168 (flat rate charge).

their original cover in their home country and register with the French system as well (dual cover). Citizens of countries with reciprocal agreements with France must provide proof of cover in their home country.

IV. Tax regulations for employees in France

In principle, French employees and foreign employees are subject to the same tax regulations. However, under certain circumstances, employees that are seconded or transferred to France between companies in the same group, benefit from specific tax measures.

IV.1. Tax residence

It should be noted that the employee's status (seconded employee, expatriate employee) has no bearing on their residence for tax purposes. Tax residence is not a matter of choice, either by the employer or the employee; it depends on legal or reciprocal agreements and treaties. A person is considered as being resident in France for tax purposes if one of the following criteria is met:

- France is the permanent place of residence of the taxpayer and their family;
- In the event that two residences are maintained: France is the center of financial and personal interests;
- failing any other deciding criteria: French nationality;
- in the event of double nationality: the matter is decided by mutual agreement by the tax authorities of the two countries.

The incomes of tax residents in France are taxable in their entirety whether they are from French sources or from other sources.

If foreign sources of income are taxed in the country of origin, double taxation is avoided in the event of tax treaties; France has a large number of tax treaties with other countries.

IV.2. Income tax system for tax residents in France

Income from compensation and salaries is taxable after deduction of social security payments and other mandatory contributions and after deduction of a standard rebate of 10% for professional expenses.

French resident's income is taxed at progressively higher rates: 0%, 5.5%, 14%, 30% and 40%. Income tax is calculated on the basis of total household income, which includes the income of the spouse and dependent children. The tax rate is proportional to the size of the household; the more people there are in the household the lower the tax rate.

Professional expenses are tax deductible either at a rate of 10% of total income, or their actual amount.

Other expenses may be tax deductible or may be eligible for tax credits, these include childcare expenses, expenses for home help, school fees, or interest on housing loans for main residences.

As from October 2007, overtime hours worked in addition to the statutory 35-hour week are now tax deductible for income tax and social security contributions, and employer contributions.

IV.3. A favorable tax system for expatriate staff

Employees and senior executives that are assigned by their company to a company based in France are not required to pay income tax on their expatriation bonus for the first year that they arrive in France and the following five years; this measure is restricted to persons who have not been resident in France for tax purposes during the five years prior to their arrival in the country.

Contributions paid by expatriate employees for social security cover in their country of origin are deductible from taxable income in France, subject to the existence of a reciprocal social security agreement between France and the country of origin, which enables the expatriate employee to continue to pay into the social security system in their home country.

In addition, charges paid by expatriate employees and their employers for supplementary health and retirement plans are deductible from taxable income in France.

Tax exemptions also cover bonuses and expenses paid for activities outside of France (“temporary secondment” clause in the employment contract, salary increases, expatriation bonuses, etc.) up to

a maximum of 20% of total taxable income for professional activity in France.

IV.4. Taxation for non-residents

Non-resident employees are only taxed on income from French sources. In this respect, salaries are subject to a 20% rate of withholding and employers based in France who pay salaries to non-resident employees must comply with the 20% tax withholding. Non-resident salaried employees are still required to file an income tax return with the French tax authorities at the “Centre des Impôts des non-résidents” (non-resident tax service) at Noisy-le-Grand, and, if necessary, pay any difference between the amount withheld and the tax due. In order to avoid double taxation, tax withheld 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).

To be noted:

Income earned in France for a salaried activity is not taxable in France if the taxpayer resides in France for less than 183 days per year and compensation is paid by an employer or for an employer who is resident outside of France.

IN DETAIL

Calculation of expatriation costs

A management level employee, employed by a company based in the US, who has not been resident in France for tax purposes since January 1st, 2000, is transferred by his employer to a company based in France as from January 1st, 2005. He regularly travels abroad for professional reasons.

- His net annual salary for 2006 amounts to 200,000€, including an “expatriation bonus” of 60,000€;
- The “net comparative salary” in France amounts to 150,000€;
- The element of his compensation

that corresponds to activity carried out abroad amounts to 33,000€.

The following are exempt from income tax for the year 2006:

- “expatriation bonus” up to a limit of 50,000€, the remainder (10,000€) being taxable in the event that the expatriated employee’s taxable income (140,000€), is lower than the “net comparative salary” (150,000€);
- the element of compensation that corresponds to activity carried out abroad, up to a limit of 30,000€ [(200,000 – 60,000 + 10,000) x 20%], if the taxpayer has opted for this exemption possibility.*

If, for example, the management level employee is married with 2 dependent children, and the household does not receive any other taxable income, then for a total revenue of 200,000€, income tax will be calculated on the basis of 120,000€; total income tax for 2006 amounts to 21,165€, which is 10.5% of the expatriated employee’s global income.

*The exempted amount is however taken into account for tax assessments according to the effective rate method.

V. Expatriated salaried staff

V.1. Housing in France

You can either buy or rent an apartment or a house. There are two ways of doing this:

- either you use an estate agent: who selects properties according to criteria that you have decided beforehand, and arranges visits. If you decide to choose one of these properties, the agent is then paid a fee (“frais d’agence”);

- or you deal directly with the owner, by replying to advertisements in newspapers (some of which are available abroad), or on the internet, on specialized sites.

In terms of property rental (which is the most common solution adopted by foreign nationals working in France), it is essential to have a rental agreement (“bail”) either directly with the owner of the property, or his representative (estate agent). As soon as the rental agreement is signed, the tenant must pay a deposit that is equal to one month’s rent (not including utilities), as well as the rent for the first month. Accommodation can be rented furnished or empty.

As a general rule, rent is paid at the beginning of the month. The rental amount quoted does not normally include utility charges. Utility charges include water (if there is a communal water meter), maintenance of communal areas, refuse collection, etc.

V.2. Schooling for children

In France, school is obligatory for children from 6 to 16 years of age. However, a child may go to school at the age of 3, and continue their education over the age of 16. Generally, public sector schools are non-religious and free of charge. There are however private fee-paying primary and secondary schools.

Pupils who do not speak French, or who are not yet fluent enough in their written and spoken French, are specifically catered to in most schools.

These pupils follow the normal school classes for their age and level, but in addition, they have several hours of special French language teaching per week in special classes:

- CLIN (beginners class) or CRI (integrated class) at primary school (“école élémentaire”);
- CLA (beginners class) or FLE (French as a foreign language) at secondary schools (“collège”) and sixth form colleges (“lycée”).

In general, it is recommended that you make contact with the school nearest to your place of residence, as soon as you arrive in France, in order to find out about registration procedures for your child.

In addition, several schools offer international sections. International sections were designed specifically for foreign pupils (these must account for at least 25-50% of the total number of pupils in the section) in order to facilitate their insertion into the French educational system and possibly their return to the educational system in their home country. Relocation companies can provide support and assistance to ensure the best possible moving conditions and an enjoyable stay in France.



Business taxes in France

BUSINESS TAXES IN FRANCE

France's corporate tax system is designed to promote business investment, regional development and international expansion. Tax rules for groups also testify to France's commitment to equal tax treatment. France has signed tax treaties with more than one hundred countries and provides foreign investors with outstanding protection against double taxation.

I. Corporate income tax in line with EU standards

I.1. Taxation based on realized earnings

Any foreign entity doing business for profit in France is liable for French tax on its earnings in France. This rule applies to all types of entities:

- Subsidiaries
- Branches
- Permanent establishments

If a branch or a permanent establishment is not a separate legal entity producing its own financial statements, its earnings from activities in France are reconstituted using the financial statements of the foreign company. Each individual tax treaty defines the notion of permanent establishment.

I.2. Calculating taxable earnings - keeping tax to a minimum

Taxable business income is calculated by deducting eligible expenses from revenue.

Revenue 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 (excluding goodwill)
- Provisions
- Rent for buildings and equipment
- Wages
- Social security charges
- Goods purchased
- Energy consumption
- Advertising
- Financial expenses, etc.

I.2.1. Limits on deductions

There are limits on some deductions to prevent abuse. For example, the depreciation allowance and deductible lease payments on company cars are capped at €18,300 including VAT (€9,900 for the least environmentally friendly cars) to prevent sumptuary expenditures from being written off as business expenses.

I.2.2. Intercompany transfers

Management expenses, interest charges and royalties paid to associated companies are deductible if they correspond to actual services rendered and the amounts invoiced are in line with market prices.

legal advice

Maitre Anne Frede, Attorney at law, partner, Amyot Juridique & Fiscal

WHAT ARE THE CRITERIA TO DETERMINE THE PRESENCE OF A PERMANENT ESTABLISHMENT IN FRANCE?

The French tax Code does not provide a definition of the permanent establishment, and the concept may be quite difficult to interpret.

This concept was introduced by the OECD within the double tax treaties framework and is defined as a fixed place of business through which the enterprise carries on all or part of its business.

The double tax treaties provide a list of what is considered as a permanent establishment such as:

- a building site or construction with a duration that may vary from one double tax treaty to the other, eg. more than 6 months with Belgium, more than 12 months with the UK;
- a dependant agent, having the authority to sign contracts in the name and on behalf of the foreign entity;
- an office, premises.

There will be no permanent establishment where the fixed place of business is only used to purchase products or to gather information, or to perform an activity that has a preparatory or auxiliary character.

A foreign entity will be deemed to have a permanent establishment where there is a permanent place of business in France with its own capability from an operating standpoint, where there are representatives in France without any professional capability separate from the capability of the foreign entity and carrying on business on behalf of the latter, and where the establishment performs operations creating a complete commercial cycle in France.

Typical example of a permanent establishment:

A UK company hires an employee for the French market for market research, targeting new contracts to be concluded. The company rents an office and purchases all the equipment it needs for such purposes (computer, telephone, etc...). During the marketing phase, there is a preliminary and auxiliary activity without any tax consequence. However, as soon as the employee receives the authority to sign contracts on behalf of the foreign company, or to negotiate pricing, this employee becomes a dependant agent triggering a permanent establishment in France.

What are the consequences of a permanent establishment?

The permanent establishment qualification would trigger corporate income tax, VAT and business tax, among other taxes, under the same conditions as those applicable to French companies, in addition to payroll tax; and an additional question arises: what percentage of profit is attributable to France? The attribution of profits between the foreign entity and the permanent establishment might trigger some discussion from the local tax authorities involved.

Is it possible to get a ruling on the permanent establishment?

From January, 1st 2005, there is a specific ruling procedure applicable to foreign entrepreneurs whereby they can ask whether the entity already located or intended to be located in France is deemed to be a fixed place of business pursuant to the double tax treaty involved. Should the tax authorities not respond within a three-month period, it is deemed that there would be no permanent establishment in France pursuant to the double tax treaty applicable between France and the country where the foreign entity is located.

1.3. Favorable depreciation rules

France's depreciation rules are particularly favorable. Fixed assets are depreciated on a straight-line basis over their expected useful life. In the case of production assets bought new, 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.

Equipment and tools used for scientific and technical research and purchased or produced after January 1st 2004 can be depreciated on an accelerated declining balance basis. The acceleration multiples in this case range from 1.5 to 2.5.

Software, energy-conservation equipment, renewable-energy production equipment, noise-abatement equipment and non-polluting vehicles (running on electricity, natural gas or LPG) can be depreciated over 12 months.

1.4. Allowable provisions

Provisions for impairment of assets are allowed if they can be justified and if they relate to clearly identified claims, inventories, securities or tangible assets. Allowable provisions include provisions for contingencies, for work in progress, for price increases, for vacation pay, etc.

1.5. Tax rates near the European average

Excluding temporary additional taxes, the following tax rates are applied:

- Standard rate of 33.33%.
- Small businesses⁽¹⁾ pay 15% on the first €38,112 and the standard rate on remaining profits.
- Reduced rate of 15% on total proceeds of industrial property (royalties and capital gains on asset sales), this includes patents, inventions that can be patented, and manufacturing processes.
- Capital gains on the sale of shareholdings are totally exempt from 2007 except for the 5% representing expenses.

An additional social-security levy of 3.3% is applied to companies where income taxable at the standard rate exceeds €2,289,000. This additional levy of 3.3% is calculated on the basis of the reference amount of corporate income tax less €763,000.

⁽¹⁾ Companies in which at least 75% of the equity is owned directly or indirectly by individuals or by companies that meet the same conditions and report annual sales of less than €7,630,000.

1.6. Loss carryforwards

Losses can be carried forward indefinitely. It is also possible to deduct the current year's losses from income in previous years (carryback).

1.7. Groups of companies: highly favorable rules for tax consolidation

France's tax consolidation rules are particularly favorable. They offer the advantages of a comprehensive system that enables groups of companies to offset income and losses from their consolidated French businesses and eliminates 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 income tax, and thus be deducted from tax to be paid by the group. This option is available if the French subsidiaries in the tax consolidation group are at least 95% owned by a French parent company. The financial years of the parent company and its subsidiaries must coincide. Groups may choose this option for a five-year period. It automatically ceases to apply if ownership conditions are no longer met.

II. Ways to repatriate profits

Profits are usually 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.

IN DETAIL*Carrybacks*

Carryback rules allow deduction of the current year's loss from income in the three previous years. This results in a claim on the Treasury for previously paid taxes. The Treasury reimburses the claim after five years, unless the company applies it against corporate income tax incurred. This claim can also be discounted by credit institutions (Daily Act)

Example:

2002 = taxable income + €50,000
 2003 = taxable income + €10,000
 2004 = taxable income + €30,000
 2005 = loss - €70,000

€50,000 of the 2005 loss is deducted from 2002 income, €10,000 is deducted from 2003 income, €10,000 is deducted from 2004 income.

The claim on the Treasury is calculated as follows:

$€70,000 \times 33.33\% = €23,331$
 (additional levies are not counted).

Use of the claim:

If the company reports income of €100,000 in 2006, it will owe €33,333 in tax. It could apply the claim against its 2006 tax bill.

If it continues to show losses in 2006, 2007, 2008, 2009 and 2010, it can apply for a refund of €23,331 in 2011.

Carryback periods in Europe:

Germany, Ireland, United Kingdom:
 1 year ; Netherlands: 3 years

II.1. No tax obstacles to billings for 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 are entitled to require evidence that transfer prices are in line with actual market prices.

II.2. International tax agreements - reduced rates of withholding tax

If the parent company is located in a country that does not have a tax treaty with France, the withholding tax rates are as follows:

- 25% on dividends, branch profits and royalties;
- 15% on interest payments.

Tax treaties between France and many countries significantly reduce withholding tax rates. For example, there is no withholding tax on dividends or branch income paid to European parent companies or to the head office of European companies. Another example is the tax treaty between France and the United States, which sets the withholding tax rate on dividends and branch profits at 5%. The withholding tax rate rises to

15% for dividends paid to individuals who are residents in the United States and own less than 10% of the French company's equity. The tax treaty with Japan was amended in 2007 to eliminate withholding tax under certain circumstances for dividends, interest and licenses paid between companies based in the two countries.

II.3. Significant exemptions for dividends transferred through holding companies

When holding companies located in France and holding equity interests in French and foreign companies redistribute dividends from companies in which their interests exceed 5% to their foreign shareholders:

- There is no tax if the holding company's parent company is located in a Member State of the European Union
- If the parent company is not located in the European Union, the only tax liability is the withholding tax at the rate determined by the relevant tax treaty.

III. Value added tax and customs duty

III.1. VAT: a neutral tax for companies

Value added tax (VAT) is a tax that consumers pay on the consumption of goods and services.

For companies subject to this tax, its impact is neutral: they merely collect the VAT on their own sales and deduct the amount of VAT that they have paid on purchases of goods and services. If companies have paid more VAT than they have collected, the difference will be refunded to them on request.

Exports of goods outside the European Union are fully exempt from VAT.

France's standard VAT rate on sales of goods and services is 19.6%, but there are also reduced rates. The rate on food and certain agricultural products is 5.5% and that on drugs is 5.5% or 2.1%. The 5.5% rate also applies to books, hotels, public transport, newspapers and magazines, certain leisure activities, etc.

III.2. Uniform customs regulations throughout the EU

Goods move freely within the European Union and customs duty is only charged once on imports from outside the EU, even if they are subsequently

shipped from one Member State to another. Goods entering France for re-export to another Member State of the European Union are not subject to any VAT charge (VAT is paid in the country where the goods are delivered to end users).

VAT payments are suspended until a later stage for transactions involving goods subject to Community custom transit procedures or placed in a bonded warehouse.

Companies are not required to effect any administrative formalities for the movement of most types of goods between EU countries. They are only required to file a declaration for Intrastat, the system for the collection of statistics on intra-community trade. Companies importing or exporting goods worth more than €150,000 a year to or from another Member State must file an Intrastat 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 Intrastat forms to the customs data center (CISD) and on-line filing. Clearance is through the competent customs department: see www.douane.gouv.fr

Clearance of non-european union goods: Imports and exports of goods between EU

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:

→ as from April 1st, 2005, companies benefit from a single monthly VAT payment for imports, to be paid on the 25th of the month

following the date of import;

→ the 1/1000 payment required when using deferred payment facilities has been phased out as from July 1st, 2007;

→ bonded credit for VAT on imports in the event of deferred payment facilities has been phased out.

These measures have led to the elimination of financial costs linked

to VAT payments on imports.

Thanks to this reduction in tax charges related to the flow of goods, the French government has improved the economic attractiveness of French ports and airports and has made up lost ground compared with other countries in the EU such as the Netherlands and Belgium.

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 (import or export), the type of goods, origin and ex-tax value of the goods. 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, and for physical and statistical identification of the goods.

IV. Local business taxes paid by companies

IV.1. Local business tax considerably reduced

Local business tax is set each year by the local authority for the administrative area (commune) in which the company's premises are located.

The tax base is calculated using the value of the fixed assets held by the company at the close of the civil year two years before the tax year in question (N-2).

The tax base is specifically calculated using the following elements:

- The rental value of the premises used by the company for its business;
- 16% of the value of the fixed assets that the company uses for its business.

Tax is then levied on 84% of the sum of these two values at a rate that local communities set each year.

No tax is due the year the business is set up.

In the second year, tax is levied on only half of the normally taxable amount.

The amount of the business tax may not exceed 3.5% of added value produced by the company.

New production equipment purchased by the company is not taxed in the year of acquisition.

Such equipment is taxed at 1/3 its value in the second year, then 2/3 in the third year following its recognition under company assets. Therefore, equipment purchased in 2008 is not subject to tax in 2010; in 2011 it is taxed at 1/3 of its value and in 2012 it is taxed at 2/3 of its value (and is fully taxable in 2013).

Assets used for scientific and technical research are not taxed.

Taxe professionnelle is deductible from corporate income tax.

IN DETAIL

Example of business tax calculation

An industrial company whose business tax bases are as follows:

- Land: €120,000
 - Building: €1,000,000
 - Production equipment: €2,500,000
- Rental value of investments:
- Land: $120,000 \times 8\% = €9,600$
 - Building: $1,000,000 \times 8\% = €80,000$
 - Equipment: $2,500,000 \times 16\% = €400,000$

1. 1. Calculation of business tax:

Net base = €489,600
 Net base after standard rebate of 16% = €411,264
 Business tax rate for the administrative area: 23% (not incl. ICC expenses)
 Business tax: $411,264 \times 23\% = €94,590$

2. 2. Business tax capped according to added value:

If the company's added value is €1,000,000, business tax is capped at:
 $1,000,000 \times 3.5\% = €35,000$.
 The company will therefore pay €35,000 business tax instead of €94,590, which is a reduction of €59,590.

IV.2. Property tax

Companies are subject to property tax on the rental value of land and buildings. The tax base is equal to the cadastral rental value (cadastral revenue) minus a standard 50% rebate. The amount of the tax to be paid can be calculated by multiplying this base by the rate voted by the local authorities.

The rental value of industrial units is always 8% of the value of fixed assets (land and buildings registered as part of company assets). The rental value of commercial premises is assessed by the administrative authorities (tax service).

Property tax is payable by the owner on the 1st of January.

New buildings are exempt from property tax for the first two years (regional and departmental parts only).

tax, they receive a cash reimbursement of their R&D tax credit after three years. High-growth SMEs (gazelles) and innovative young companies qualify for immediate reimbursement of R&D tax credit.

Research expenditure that is eligible for the research tax credit includes fundamental research, applied research and experimental development.

For expenditure incurred after January 1st, 2008, research tax credit is calculated at 30% of total yearly expenditure for research activities, for expenditure that is lower than or equal to €100M, and at 5% for expenditure above this level. The 30% rate rises to 50% and 40% for the 1st and 2nd years respectively, for companies applying for the research tax credit for the first time, or companies that have not benefited from research tax credit within the last five years. The total amount of research tax credit is no longer capped.

V. A wide range of tax incentives for investors

V.I. Tax credits

V.I.I. R&D tax credit

Manufacturing, trading and agricultural companies that spend money on research can obtain a tax credit, which can then be applied against their corporate income tax. If they do not owe any

Eligible research spending includes:

- Staff costs (gross wages and social security contributions) for researchers and research technicians working directly and exclusively on research;
- 200% of the salaries paid over the first 12 months to employees with a doctorate in their first professional posting (24 months for expenditure incurred after January 1st, 2008);
- Expense for the acquisition and maintenance of Plant Variety Rights;

IN DETAIL

Example of property tax calculation

An industrial company realized and completed the following investments during 2008:

- Land: €100,000
- Buildings: €600,000
- Equipments: €1,500,000

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

- Land: $100,000 \times 8\% = 8,000$

- Buildings: $600,000 \times 8\% = 48,000$

Total rental value after standard 50% rebate: €28,000

Tax rate voted by local authorities (20.5%):

- Commune: 12%
- Department: 6.5%
- Region: 2%

Tax is not payable until 2009.

In 2009 and 2010, tax is only payable for the communal part, i.e.: $28,000 \times 12\% = €3,360$ (exemption for new buildings)

As from 2011, tax payable is equal to: $28,000 \times 20.5\% = €5,740$

Mr. Alain Girard, cabinet FIDAG

MANDATORY ACCOUNTING PROCEDURES FOR THE FIRST MONTHS OF ACTIVITY

The Centre for Business Formalities (CFE) is authorized to receive the obligatory declarations relative to the existence of new businesses subject to Corporation Tax (IS) and Value Added Tax (TVA). This office informs the Tax Authorities (SIE) as soon as the formalities relative to the constitution of a company and its registration have been completed.

The relevant SIE is the one covering the company registered office location, or the address of the offices where the company is actually managed.

The SIE collects local business tax (*taxe professionnelle*) and redistributes it to local authorities (*communes, départements and régions*). As soon as the SIE is informed of the creation of a company by the CFE, a request for information is transmitted to this company. This enables the authorities to identify the commune to receive the tax collected, based on the location of the assets.

For the year in which the company is created, “*taxe professionnelle*” is not due, but the company must send to the SIE a provisional declaration communicating the bases for calculating the tax due, by December 31st at the latest, on tax form No 1003 P. Thereafter the company must complete and file annually, before May 1st each year, a declaration of taxable assets, on form 1003.

Local business tax, is collected by assessment by the SIE for the first time at the end of the year following the creation of the company.

On registration of the company, the SIE allocates a European Value added tax number, comprising the SIREN (identity number allocated by the national statistical office - INSEE) on the following basis: FR + 2 figures or letters + the SIREN number.

Thereafter the VAT is collected monthly on the tax form No 3310 - CA 3. This document has to be filed respecting the date limits; 15th - 24th of each month.

Companies may opt for quarterly filings, if total annual TVA payable is less than €4,000

The date limit for sending the balance sheet, income statement plus notes to the accounts, accompanied by tax forms to the SIE is three months from the balance sheet date. The official package comprises forms 2050 to 2059 - G and 2065 (“*liasse fiscale*”).

Three months and fifteen days after the balance sheet date, companies must send form No 2572 - K to the SIE. It communicates either the year’s tax losses brought forward for deduction from the next year’s taxable profits and the absence of taxable profits for the year, or the calculation of the tax due, and payment must accompany the filing.

A stable branch in France, corresponding to the definition in the bilateral double taxation convention, has the same obligations as a company (whereas the liaison office has no obligations).

legal advice

Thomas Perrin, Partner, and Lionel Draghi, Engineer, Taj, the French law firm, member of Deloitte Touche Tohmatsu

THE FRENCH RESEARCH TAX CREDIT (RTC) IN THE INTERNATIONAL ENVIRONMENT

The How does the RTC compare with foreign R&D tax incentive schemes?

More than 35 countries, most of which are large countries that are members of the OECD, offer tax incentives supporting R&D efforts aimed at fostering private investment in research.

The French RTC, in its version applicable from 2008, is one of the most attractive schemes worldwide, whether quantitatively because of its rate (30% in volume, with an increase in rate, which may rise to 50% and 40% during the first two years of entry into the scheme), but also qualitatively:

1. The RTC is a final benefit, vesting even when the company does not pay any tax, and may therefore be assimilated to a subsidy. This credit may significantly improve the financial statements, if recorded in the operating income accounts (rather than as a tax) and, in the case of loss-making companies, through the recognition of a tax asset immediately from the year in which the research expenditures are incurred.

2. The RTC is directly linked to the volume of research expenditures rather than to their increase.

3. A company may benefit from the RTC if it acts as a subcontractor and does not assume the economic risk associated with research or own the intangibles created by the relevant research.

4. The research operations may be conducted throughout the entire EU and are therefore not restricted solely to French territory. This often entails the implementation of a procedure which is now highly effective for the accreditation of subcontractors with the Research Ministry.

5. The scheme has recently been adapted in order to give greater legal certainty. This is likely to create a favourable environment for investors.

Can you give more details concerning the factoring in of the RTC in the choices for the location of R&D operations?

Our experience shows that the RTC is now integrated into the decision to locate R&D operations in France. The RTC accounts for nearly 60% of R&D payroll expenses and contributes to increasing France's competitiveness as compared with other countries having qualified staff and whose wage costs are much lower.

Moreover, by capitalizing on the fact that the RTC takes into account research subcontracted in the EU, a French research center may act as a group's European central R&D platform, and coordinate research entrusted to European subcontractors, whether within or outside the group. Depending on the country in which these subcontractors are located, they may also benefit from the local R&D incentive schemes, in addition to the French RTC.

Another approach may consist in setting up an R&D center in France, acting as the subcontractor of an affiliate located in another country and holding the patents derived from the research. In certain cases, this makes it possible to combine the French RTC with another R&D incentive scheme, which is conditional on the ownership of the intangibles (e.g. Belgium / Netherlands / Japan).

In this context, the RTC is a key factor of France's attractiveness for R&D players, along with the other incentives contained in French legislation, whether tax-related (e.g. tax rules applicable to patents, deduction of R&D for the determination of the business tax) or not (e.g. competitiveness centre).

- Depreciation of plant and equipment used directly for research operations;
- Operating expenses set at:
 - 75% of eligible staff costs
 - 200% of salaries paid to recent doctoral graduates over the first 24 months
- Patent filing and maintenance costs;
- Bonuses and payments related to patent insurance contracts (capped at €60,000 per year);
- Amortization of patents acquired for research purposes;
- 50% of standardization costs;
- Spending on research contracted out to approved organizations in France and Europe, up to an annual limit of €10 million per company (€2 million for associated companies);
- Spending on patent defense and technology watch
- Funding provided to public research bodies, universities and technical centers, which counts double towards the tax credit: in addition, as from January 1st, 2008, the limit for this type of expenditure is increased to €12M.

V.I.2. Family tax credit initiative helping employees with children to achieve a better balance between work and family life

Companies can obtain a tax credit equal to 25% of certain types of spending for socially useful purposes such as the creation and operation of day-care centers, training for employees on parental leave, compensation for employees on maternity, paternity or parental leave, etc.

The tax credit is capped at €500,000 per company and per year. It can be applied against the company's corporate income tax 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 reimbursed.

V.I.3. Cinema, television and media tax credit to encourage creativity

Cinema, television and other media companies that pay corporate income tax can obtain a tax credit for certain production expenditures specified by law. The tax credit is available to companies that act as assistant producers and for operations carried out in France for the production of feature-length films.

The cinema tax credit is calculated for each financial year and is equal to 20% of the eligible expenditures. The total tax credits for a single film are capped at €1,000,000 for a fictional, documentary or animated feature.

In the case of fiction produced for television or cinema, the tax credit may not exceed €1,150 per minute; this limit rises to €1,200 per minute for animated features.

The tax credit can be applied against the company's corporate income tax 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 reimbursed.

V.I.4. Tax credit for audiovisual program distributors

Taxpaying companies whose main business activity is the distribution of audiovisual programs in French or in a regional language currently in use in France, may benefit from a tax credit of up to 20% of eligible expenditure in France, for the financial years between December 31st, 2006 and December 31st 2008.

Expenditure must not qualify for CNC (Centre National de la Cinématographie) financial assistance: it is capped at a total of 80% of the distribution budget, and requires a minimum amount of spending to qualify (€200,000 per 36-month period).

V.I.5. Tax credit for investment in the production of sound recordings and cinema production

Companies subject to corporate income tax and established for at least three years may benefit from a tax credit for spending on the production, development and digitization of sound recording and music video recordings.

The tax credit for cinema production is equal to 20% of eligible expenditure incurred between January 1st, 2006 and December 31st, 2009.

The total amount of tax credit calculated on the basis of eligible expenditure may not exceed €700,000 per company per year. This limit is increased to €1,100,000 if the number of staff employed by the company is at least as high as the previous year, and if legal sales of digital music, as a percentage of total sales, has increased by at least 3% compared to the previous year.

V.I.6. Tax credit for video games

Video game development companies that are subject to corporate income tax, are entitled to a tax credit for video game development expenditure. Games that are eligible for the tax credit must incur development costs that are higher than or equal to €150,000, and also contribute to French or European cultural creativity in terms of video games, as well as their variety and quality.

The tax credit is calculated at 20% of total expenditure: depreciation, copyright, staff costs, overheads and subcontracting. The tax credit is capped for all companies at €3 million per financial year.

V.I.7. Tax reduction for high-growth SMEs

Small to medium-size businesses with at least 20 employees may benefit from a tax reduction when staffing costs (excluding those for senior management) are increased by 15% or more in the two previous financial years.

This reduction is subject to the EU ceiling on de minimis aid, which is €200,000 for each period of 36 months. This measure concerns financial years started between January 1st, 2006 and January 1st, 2009.

IN DETAIL

Green taxes

Businesses contributing to sustainability and preservation of the environment may benefit from tax advantages.

Particularly favorable tax measures thus apply to those using equipment for the production of renewable energy or for energy savings.

Such equipment may be depreciated over 12 months instead of over useful lives, generally in a range of 5 to 10

years. This exceptional depreciation applies to equipment purchased or produced up to January 1st, 2010. As regards tax professionnelle, the rental values that are used to calculate liabilities are halved for this kind of equipment purchased or produced from 1992 on. Local authorities and local government groupings with powers of taxation may individually decide to increase this reduction in rental value from 50% to 100%.

Non-polluting vehicles running exclusively or in part on electricity, natural gas or LPG and acquired before January 1, 2008, may also be depreciated over 12 months on an exceptional basis.

Finally, since January 1st, 2007, the general tax on activities that pollute ("polluter pays" principle) has been reduced for businesses that respect certain environmental standards.

V.2. Temporary exemption from local business tax available in troubled areas

In some designated areas in France (regional aid zones, urban zones, employment priority zones, etc.), local authorities (municipalities, départements, regions and intermunicipal authorities) have the right to grant full or partial temporary exemptions from *taxe professionnelle* to companies that set up or expand their business or take over troubled businesses. The exemption may be for any period not exceeding a limit of 5 years.

As from 2007, in major unemployment zones, companies can benefit from a business tax credit of €1,000 per employee (tax break capped at €200,000/3 years).

V.3. Temporary exemption from corporate income tax (*impôt sur les sociétés* or IS) for new companies.

V.3.1. Newly created companies located in some areas may, subject to certain conditions, be eligible for a temporary exemption from corporate income tax, diminishing over time.

The exemption is total for the first 24 months, after which tax is levied at a rate of 40%, 60% and 80% for the first, second and third 12 month period respectively, following the period of total exemption.

Such exemptions are restricted to companies engaging in new business and which are not more than 50% owned by other companies. Total tax breaks are capped at €200,000 in any 36-month period.

The eligible companies may also be exempted from local business tax (*taxe professionnelle*) and property tax for five years, if the local authority so decides. Companies set up to take over a company in difficulty may also, subject to certain conditions, be exempt from corporate income tax for the 24 months following the takeover.

As from 2007, employment priority zones have been set up (Champagne-Ardenne and Midi-Pyrénées regions) where newly located companies are exempt from corporate income tax for a period of 7 years.

V.3.2. Innovative new companies (*Jeunes Entreprises Innovantes* or JEI)

There are specific measures aimed at helping new companies where research spending accounts for at least 15% of total expenses.

They provide for partial exemptions from corporate income tax, local business tax (*taxe professionnelle*) and property tax over a period of eight years. Total tax breaks are capped at €200,000 in any 36-month period. The wages of such companies' research staff are exempt from the employers' social security charges for 8 years.

These measures are for small and medium-sized companies (under 250 employees, sales of less than €50 million and total assets of less than €43 million) that are mainly owned by individuals or by companies that meet the same criteria.

Sales of shares in such companies are exempt from capital gains tax if the seller has held the shares for three or more years.

These measures have been extended to New University Companies* (*Jeunes Entreprises Universitaires* - JEU) set up in 2007.

** New University Companies ("Jeunes Entreprises Universitaires" - JEU): SME's that are less than 8 years old, at least 10% of ownership being held individually or in partnership by students, by masters' degree post graduates or doctorates of less than five years, or by people working in teaching and research activities, and which incur at least 15% research expenditure.*

V.3.3. Single-owner venture capital company - *société unipersonnelle d'investissement à risque* or SUIR

A SUIR is a special type of legal entity owned by a single individual.

This structure provides tax benefits that are commensurate with the high risk of investing in new companies.

Such companies must be founded for the sole purpose of subscribing in cash to the initial share issues or capital increases of unlisted manufacturing, trading and artisan companies located in the European Union and liable for corporate income tax. Investments must be in new companies that are majority owned by individuals or by other companies that are themselves majority owned by individuals. The single-owner venture capital company can own up to 30% of voting rights in these companies.

The tax benefits come in the form of two exemptions:

- A corporate income tax exemption for the first ten years of the venture capital company's existence;
- The original shareholder is exempt from personal income tax on income distributed by the venture capital company, including capital gains on the disposal of shares in target companies.

VI. Special tax regime for headquarters

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

To be eligible for the special rules, the services must be provided to companies in the same group only. 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 during a subsequent tax audit.

Tax is assessed at the standard rate on income that is derived by applying the agreed cost-plus formula to expenditures 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 3 to 5 years.

As part of the tax rules aimed at eliminating expatriation costs, headquarters and logistics centers may pay special compensation to their expatriate employees that is totally or partially exempt from personal income tax. Companies must apply to the tax authorities to benefit from these measures, which may not be cumulated with the new system for impatriate salaried workers: potential beneficiaries must opt for one or the other.



Public support for business

Chapter V Doing Business in France

PUBLIC SUPPORT FOR BUSINESS

The 27 EU Member States⁽¹⁾ are subject to European Commission regulations defining limits and conditions for the grant of public assistance for business. This provides a Community-wide framework in support of fair competition within the single market. Rules for government intervention, eligible expenditure and aggregate aid apply to all EU Members, with no exceptions made for Eastern Europe.

Within this broader context, Member States remain free to adopt the most appropriate economic development measures for their territory.

In this respect, 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 (productive investment, job creation, innovation, training, etc.), the location of the investment project (priority development zones or non-priority zones) and the type of company (large corporation, SME). The French authorities support investment projects that favor:

→ productive investment in economically disadvantaged regions and regions in the process of industrial redevelopment (except where this concerns the steel and synthetic-fiber sectors), these regions being specifically

indicated on a map approved by the European Commission (National Regional Aid map);

→ business R&D projects;

→ professional training programs initiated by business;

→ job creation for the employment of defined groups;

→ investment and job creation by SMEs in all parts of the country;

→ protection of the environment.

With the exception of support for productive investment which is specifically zoned, the French authorities can provide support to companies all over France for research and development and innovative projects, staff training programs, as well as projects for the protection of the environment.

Public support may be granted by the national government or regional and local authorities (régions, départements, communes). If assistance is received from several different sources, the total may be up to the allowed limit. Public assistance providing effective support for business start-ups, job creation, investment and business development may come in the form of subsidies or tax exemptions. Community law requires such assistance to be of the nature of an incentive, and therefore it must be applied before the project gets underway.

⁽¹⁾ Since January 1, 2007, the European Union has 27 member states: Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, The Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom.

IN DETAIL

IFA assistance

The Invest in France Agency will help you identify precisely which forms of public support may be available

for your project and prepare your application filing. The Agency will also put you in touch with the ministries,

local authorities, government agencies and other public agencies responsible for assisting investors.

I. Benefit from assistance for productive investment and job creation

There are a variety of financial incentives for business investment and job creation. Allowable support concerns either investment outlays (buildings, land and equipment) over three years or the cost of job creation relating to the investment (estimated wages and social security charges over two years).

I.1. Incentives for productive investment and job creation in designated areas open to large corporations

The limits on incentives for productive investment and job creation depend on the location of the investment and the size of the company making the investment.

I.1.1. National regional aid

In accordance with the zoning for national regional aid in France approved by the European Commission for the period from 2007 to 2013, the limit on assistance ranges from 10 to 15% of the investment for large business and from 20 to 35% for SMEs.

To obtain the maximum allowable amount of assistance in the area concerned, businesses may combine several types of national aid.

→ Grants for industry and services (Prime d'aménagement du territoire or PAT)

PAT grants are based on the number of jobs created. Grants are made on a case-by-case basis, and take into account the features of each project (number of jobs created and total amount of investment). The ceiling is €15,000 per job created.

IN DETAIL

Large projects

A large project is defined as one with allowable costs exceeding €50 million, conducted over a period of up to three years by one or several businesses but remaining an economically indivisible whole.

→ Member States are required to inform the European Commission of the assistance they provide for productive investment exceeding €50 million.

→ Member States are required to notify the European Commission of aid exceeding €11.25 million

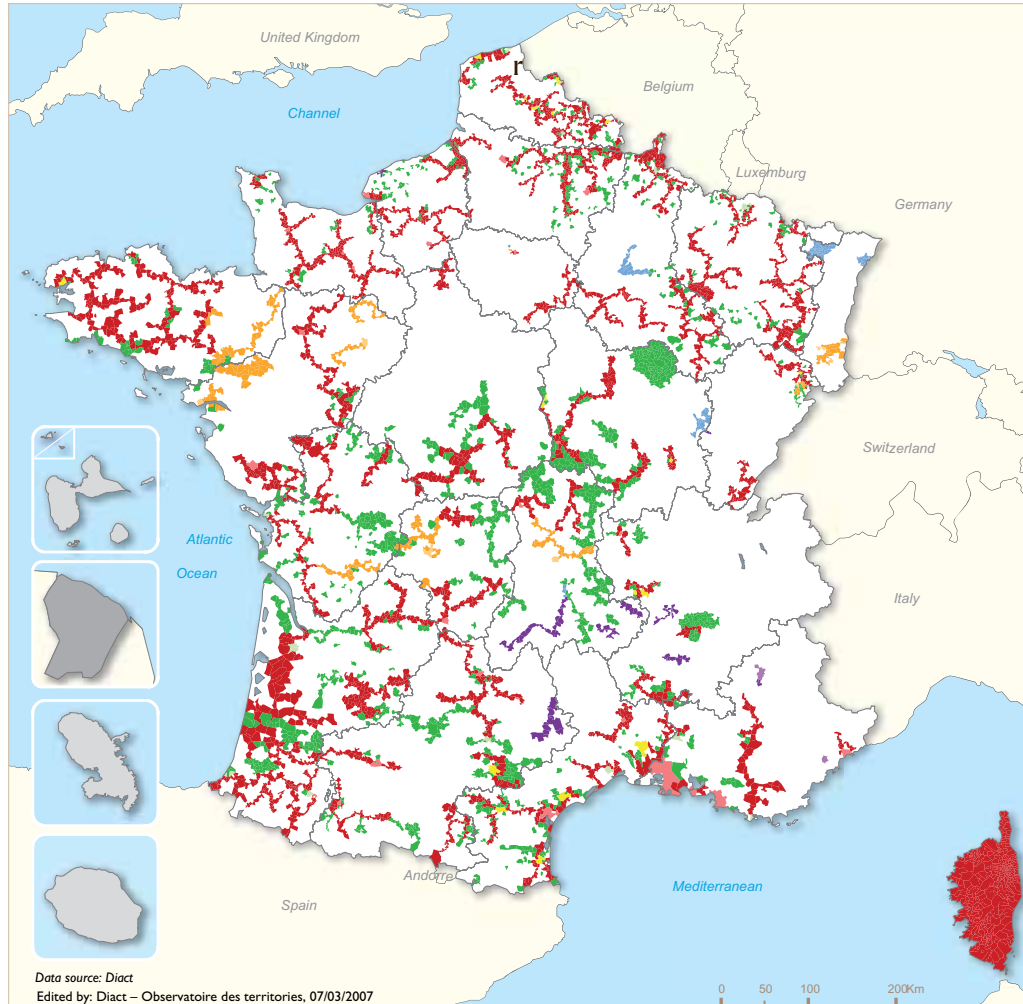
in areas where the aid ceiling is 15%, and exceeding €7.5 million where it is 10%.

Large investment projects in areas eligible for national regional aid are subject to automatic reductions in allowable assistance proportionate to their total amount as shown below:

Size of investment	Adjusted aid ceiling	Ceiling for limited state aid areas	Ceiling for full state aid areas
up to €50 million	100% of ceiling	10%	15%
€50 up to €100 million	50% of ceiling	5%	7.5%
over €100 million	34% of ceiling	3.40%	5.1%

IN DETAIL

Map of regional aid zones (2007-2013) adopted by the European Commission on March 7th, 2007



Map source : Franciême © All rights reserved

<p>Permanent zones (2007-2013) not limited to SME's</p> <p>Normal rate Rate of aid for large companies: 15% Rate of aid for medium companies: 25% Rate of aid for small companies: 35%</p> <p>Reduced rate Rate of aid for large companies: 10% Rate of aid for medium companies: 20% Rate of aid for small companies: 30%</p> <p>Area eligibility: Partial Total </p>	<p>Permanent zones (2007-2013) limited to SME's</p> <p>Normal rate Rate of aid for medium companies: 25% Rate of aid for small companies: 35%</p> <p>Reduced rate Rate of aid for medium companies: 20% Rate of aid for small companies: 30%</p> <p>Area eligibility: Partial Total </p>
<p>Transitional zones (2007-2008)</p> <p>Rate of aid for large companies: 10% Rate of aid for medium companies: 20% Rate of aid for small companies: 30%</p> <p>Area eligibility: Partial Total </p>	<p>Overseas French territories totally eligible (2007-2013) not limited to SME's</p> <p>Normal rate Rate of aid for large companies: 50% Rate of aid for medium companies: 60% Rate of aid for small companies: 70%</p> <p>Increased rate: Rate of aid for large companies: 50% Rate of aid for medium companies: 70% Rate of aid for small companies: 80%</p> <p>Area eligibility: Partial Total </p>



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 DIACT website (www.territoires.gouv.fr).

→ Local government assistance

Local authorities may grant various forms of assistance for businesses in regional aid areas. This may include in particular subsidies or supplements to PAT grants and assistance to finance business premises (land and buildings) such as reduced purchase prices, within the limits applying to national regional aid for the area concerned. Rent assistance is limited to €200,000 per business over three years (de minimis).

→ Temporary exemptions from tax professionnelle

Tax professionnelle is a local tax on non-payroll business activities at rates set by local authorities.

In regional aid areas, local authorities may grant full or partial exemptions.

Manufacturing and scientific/technical research are eligible for exemptions for periods of up to five years. They are granted subject to job creation and investment requirements that vary according to the business sector and the size of the commune concerned.

→ Exemptions from corporate income tax

New business setting up in regional aid areas may benefit from a temporary and degressive exemption from corporate income tax (impôt sur les sociétés or IS). Within BER areas, all new companies with an industrial, commercial or trades activity benefit

IN DETAIL

Grants for industry and services (Prime d'aménagement du territoire or PAT)

PAT grants are distributed by DIACT (Délégation Interministérielle à l'Aménagement et à la Compétitivité des Territoires) available for business starts, extensions and conversions as well as takeovers of troubled businesses.

Eligible sectors as defined in the NAF classification are as follows: Section D: manufacturing; Division 51: wholesale trading; Section I: transport and communications; Section J: financial services; Division 72: information technology; Division 73: research and development; Division 74: business services.

Eligibility:

1. In the case of business starts, investments on the site designated for assistance must involve either:

- a) the net creation of at least 25 permanent jobs and allowable investment of at least €5 million, or
- b) the net creation of at least 50 permanent jobs if allowable investment is under €5 million.

2. In the case of extensions to existing operations or changes in the nature of business, investments on the site designated for assistance must meet one of the following conditions:

- a) the net creation of at least 25 permanent jobs or an increase of at least 50% in employment on the site;
- b) the net creation of at least 50 permanent jobs;
- c) allowable investments of at least €25 million.

3. PAT assistance may be available for takeovers of existing business subject to three conditions:

- a) severe deterioration in the local labor market;
- b) the planned takeover will lead to lasting, structural improvement in the competitiveness of the business and contribute to the diversification of its customer base;
- c) and finally, the takeover involves the preservation of at least 150 jobs and allowable investments of at least €15 million.

The amount granted may not exceed the equity of the company benefiting together with any shareholders' loans frozen for the duration of the investment program.



For more information:

Ministerial decree no. 2007-809 dated May 11, 2007 concerning Primes d'Aménagement du Territoire (Grants for industry and services)

from total exemption from corporate income tax for a period of 84 months.

Businesses benefiting from income tax exemptions in regional aid areas may also be exempted from property tax for a period of two years.

→ **Public-sector redevelopment corporations**

Several large public-sector industrial groups have set up industrial redevelopment corporations to favor economic development in their regions (e.g., SOFIREM, FINORPA, SODIE, SODIVE).

These corporations provide support for new investors in the form of:

- long and medium-term loans at below market rates, which may be without security;
- equity funding through the acquisition of temporary minority interests.

I.1.2. Reduced social-security charges in areas targeted for redevelopment

In some areas where labor-market conditions are particularly difficult, French authorities have provided for exemptions from social security and related charges. These areas are designated as Zones de Redynamisation Urbaine or ZRU (urban renewal areas), Zones de Revitalisation Rural or ZFR (rural renewal areas), Zone Franche Urbaine or ZFU (tax-free urban areas), Zone Urbaine Sensible or ZUS (sensitive urban areas) and Bassin d'Emploi à Redynamiser or BER (priority employment areas).

Depending on zoning, exemptions from employer charges concern either all businesses or only small to medium-size enterprises. All such exemptions are capped under EU law, the limit being either €200,000 per period of three years or the EU ceiling on national regional aid.

I.2. Support for productive investment and job creation outside designated regional aid area

In the rest of France (not including the Ile de France, ZUS or ZRR areas), support for investments

remains possible where small and medium-size businesses are concerned. Assistance is capped at 7.5% of the investment for medium-size businesses and 15% for small businesses (or €200,000 over three years if this is more favorable).

→ **Assistance for SMEs (FDPMI - government fund for the development of small and medium-size industries)**

France's central government and regional authorities may grant small and medium-sized enterprises subsidies for the purchase of equipment with a significant technology component. Such assistance is available throughout France, and it is naturally focused on designated regional aid areas.

→ **Support can also be made available through the European Regional Development Fund (ERDF)**

provided the Operational Programme, negotiated region by region, has been approved by the European Commission.

Outside of AFR areas, large businesses may only benefit from assistance capped at €200,000 (e.g., to assist with real estate).

II. Benefit from assistance for training and recruitment

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

II.1. Assistance for job creation

II.1.1. Public support for employment

Businesses of all sizes can receive support for job creation unrelated to investment.

The main forms of assistance in this area are:

- **regional employment grants** (primes régionales à l'emploi)
- grants of up to €3,200 for each newly created job from the **FRED** fund (Fonds de Restructuration de la Défense)

IN DETAIL*EU definition of Small and Medium-size Enterprises (SMEs)*

→ EU definition of Small and Medium-size Enterprises (SMEs) Medium-size enterprises are those satisfying all of the following criteria: fewer than 250 employees, annual sales under € 50M or a balance sheet total under € 43M and absence of any controlling interest (25% of equity or voting rights) owned by a large company.

→ Small enterprises have fewer than 50 employees and annual sales or a balance sheet total under € 10M. They are also independent from any large company.

→ Calculation of staff numbers, sales and balance sheets must factor in all the businesses in which company has a direct or indirect

interest exceeding 25%. Limits on staff numbers and finances must be exceeded in two consecutive financial years for the company to lose SME status or become a medium-size rather than a small enterprise.



For more information:

European Commission recommendations dated May 6, 2003, concerning definitions of micro, small and medium sized enterprises

II.1.2. Employment incentives

Some forms of aid and partial exemptions from social-security charges depend on the category of employee recruited. They are allocated automatically and separately from the investment incentives described above. In this respect, the lower employer contributions for low-wage earners enable companies to benefit from reduced social security charges for wages under 160% of the SMIC minimum wage. These contributions are thus reduced to less than 19% for the minimum wage.

of aid described below. If total aid made available to a business exceeds €1 million, the European Commission must be notified.

→ Local authority aides

Local authorities may provide support for:

- initiatives providing for between 50 and 1,200 hours of theoretical and practical job-specific training involving at least 120 hours away from production;
- initiatives aimed at helping employees adapt to a new position representing the equivalent of at least 120 hours in lost work time.

II.2. Assistance for employee training

The enhancement of workforce skills is a key priority for the French government and this is reflected in a variety of programs to back business training initiatives.

These programs can partly cover costs including training staff payments, travel expenses for training staff and employees, depreciation of training equipment, related consultancy fees and the time taken off work by employees participating in a course.

The level of assistance depends of the type of training and the size and location of the business. To benefit from maximum allowable levels of support for their training programs, businesses of all sizes may take advantage of the various forms

→ 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. This support may be equal to up to 50% of that from national aids.

→ Tax credit for spending on training for SME management

This applies to individual entrepreneurs managing their own businesses, the chairmen, deputy chairmen and directors of SMEs. The tax credit is limited to 40 hours a year. Depending on the case, it may be applied against personal or corporate income tax.

IN DETAIL*Increases in terms of support for training*

	Large businesses	SMEs
Targeted training: Training with direct applications in the employee's tasks and developing skills not transferable to other businesses or other types of work.	25%	35%
Targeted training in regional aid areas	30%	40%
General training: Training not limited to applications in the employee's current or planned position, instead developing skills that are in large part useable in other businesses or positions and thus significantly enhance the beneficiary's employability.	50%	70%
General training in regional aid areas	55%	75%

→ EDEC contracts (formerly EDDF)

Businesses can also call on their professional and inter-professional organizations to benefit from technical and financial assistance covering 25% to 80% of training expenses.

III. Benefit from support for innovation, research and development (RDI)

France has adopted an industrial policy centered on support for research, development and the capacity for effective innovation of the businesses operating within its border.

Public support for research and innovation in the private sector is organized around the Ministry for the Economy, Finance and Employment, the Ministry of Research and the Ministry for Ecology, Development and Sustainability, assisted by public-sector organizations including the National Research Agency (Agence Nationale pour la Recherche - ANR) the Industrial Innovation Agency (Agence pour l'Innovation Industrielle - AII) and OSEO (formerly ANVAR), dedicated to innovation and support for SMEs. Regional and local authorities can provide additional support in this area.

Support is particularly available to help finance the R&D projects of businesses throughout France. Research expenditure can also give rise to tax credits calculated on the basis of 30% of annual research expenditure. Innovative young businesses benefit from special advantages to back their development in France. These include tax reductions and exemption from social security charges and capital-gains tax on the sale of equity interests.

III.1. Aid for R&D in all parts of France

Subsidies may cover a portion of R&D expenditure including related payroll expenses, equipment purchases, expenses for contracted research, purchases of know-how and patent rights, and overheads.

The level of support depends on the stage of R&D involved, which may concern fundamental research, industrial research or experimental development. Public contributions to joint R&D projects with a large business may cover up to 40% of the total cost.

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

IN DETAIL*Intervention rates for R&D*

		Companies with 250 or more employees	Medium-sized enterprises	Small enterprises - SMEs with 50 employees at most
Assistance for R&D projects	Fundamental research	100 %	100 %	100 %
	Industrial research	50 %	60 %	70 %
	Industrial research involving cross-border cooperation between businesses with the participation of at least one SME or research entity or research dissemination organization	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 entity or research dissemination organization	40 %	50 %	60 %
Assistance for technical feasibility studies	Preparatory studies for industrial research	65 %	75 %	
	Preparatory studies for experimental development	40 %	50 %	

→ **Regional development grants for research, development and innovation (Prime d'Aménagement du Territoire - PAT pour la Recherche, le Développement et l'Innovation)**

Grants may be up to €15,000 for each job created or involved in the R&D project or €25,000 per job in the case of a cooperative project. They are available for R&D projects involving the net creation of at least 20 permanent jobs or eligible expenditure of at least €7.5 million.

→ **OSEO (formerly ANVAR).** Assistance is in the form of grants, repayable advances or assistance for the recruitment of R&D personnel (Aide au Recrutement pour l'Innovation or ARI). Assistance for the recruitment of R&D personnel is in the form of a subsidy that may cover up to 50% of annual expense related to the recruitment

of a person dedicated to the company's R&D unit. It is capped at €25,000.

→ **The National Research Agency assistance** (Agence Nationale de la Recherche - ANR) supports fundamental and applied research, public-private partnerships and dissemination of public research results to business and industry. It operates on the basis of calls for proposals.

→ **Local-authority assistance 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 nil and the bond-market average.

→ **ADEME assistance for R&D projects**

IN DETAIL*Subsidized R&D employment contracts***→ CIFRE**

CIFRE (Conventions Industrielles de Formation par la Recherche) contracts offer post-graduate students an opportunity to prepare their doctorate within the framework of a business, which receives a fixed annual grant of €17,000. These contracts are administered by the National

Association for Technical Research (Association Nationale de la Recherche Technique - ANRT).

→ CORTECHS

CORTECHS (Conventions de Recherche pour les Techniciens Supérieurs) enable SMEs to recruit highly-qualified technicians for technical development projects

in association with a technical center (Centre de Compétences Techniques). The business may receive a grant of €13,000 for the recruitment under an indefinite or fixed-term contract of a technician with two or three years of higher education.

III.2. Support for innovation in service-sector processes and organization

It may be available from local authorities and DIACT, the French government development

department. Limits are 15% of related spending in the case of large businesses, which can only benefit if they are associated with an SME, 25% for medium-sized enterprises and 35% for small enterprises.

IN DETAIL*Support for innovation and research through competitiveness*

France's officially recognized competitiveness clusters (pôles de compétitivité) bring together businesses, scientific and technical institutions and public bodies with interests in a particular sector in a given geographical area. They are drivers for innovation, with local ties favoring the circulation of information and expertise and, by the same token, the emergence of new ideas, and a source of attractiveness, with geographical concentration favoring international visibility.

Businesses participating in a competitiveness cluster and conducting an R&D project

approved by the cluster may benefit from support in the form of grants from public organizations supporting R&D. Limits on grants are raised from the 25% normally applying to 40% when the project is conducted within the framework of a competitiveness cluster.

Businesses may also benefit from tax exemptions amounting to up to €200,000 per company over three years, provided they are in a zoned R&D area:

→ full exemption of profit and capital gains duly declared by the company, after deduction of loss carryforwards in the

case of businesses subject to corporate income tax (impôt sur les sociétés or IS), over 36 months and a 50% exemption over 24 months;

→ full exemption from IFA (Impôt Forfaitaire Annuel), an annual tax based on company revenues, for a period of up to five years;

→ with the approval of local authorities, exemptions from tax professionnelle and property tax on built land for a period of 5 years (exemption not offset by a central government payment to the local authority).

IV. Support for environmental investments is being developed

French authorities may make grants for investments aimed at achieving environmental standards exceeding the legally required minimum. These may cover up to the 35% of expenditure for large businesses and 45% for SMEs, which may also receive assistance for upgrading to meet legal requirements.

Eligible investment concerns spending on property, plant and equipment to reduce pollution, noise, odors and other nuisances, and protect the environment. Consideration may also be given to expenses relating to technology transfers through operating licenses and the acquisition of expertise, subject to patents or not.

The level of assistance depends on the type of environmental investment:

→ SMEs may receive up to 15% of expenditure for a period of three years to back investments to meet regulatory requirements.

→ businesses of all sizes may receive assistance covering up to 30% of investments to exceed EU standards.

→ higher rates apply to some investments, covering 40% of eligible costs for investments in energy savings, combined heat and electricity generation and in renewable energy.

→ investments in renewable energy sufficient to supply an entire community may benefit from assistance covering up to 40% of costs.

Government agencies and other public bodies able to provide support for environmental investments include the Agency for the Environment and Energy (Agence de l'Environnement et de la Maîtrise de l'Energie), the Water Agency (Agence de l'Eau), and guarantee funds for investments in energy savings and renewables (FOGIME and FIDEME).

Glossary Doing Business in France

Below is a list of French terms that foreign companies are likely to encounter when locating their business activities to France, followed by a brief explanation in English. Readers should be aware that the technical

terms in English serve as a guideline, and do not necessarily correspond entirely to the same concepts as the French terms. For further information, please contact the IFA.

French term	English term
Activité professionnelle commerciale, artisanale, industrielle	Commercial, trades or industrial activity
Activité professionnelle salariée	Salaried activity
Aides à finalité régionale	Regional aid
Autorisation provisoire de travail	Temporary work permit
Bail commercial	Commercial lease
Bail professionnel	Professional lease
Bureau de liaison	Liaison office
Carte de séjour mention «commerçant »	« Business activity » residence permit
Carte de séjour mention « salarié»	« Employee » residence permit
Carte de séjour mention « salarié en mission»	« Expatriated salaried employee » residence permit
Carte de séjour mention « travailleur temporaire»	« Temporary worker » residence permit
Carte de séjour mention « scientifique»	« Scientific activity » residence permit
Carte de séjour mention « étudiant»	« Student » residence permit
Carte de séjour mention «compétences et talents »	« Skills and expertise » residence permit
Cadre dirigeant	Senior manager
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 Laws
Comité d'entreprise	Work committee
Commune	City authorities or Municipalities
Contrat à durée indéterminée (CDI)	Permanent work contract
Contrat à durée déterminée (CDD)	Fixed term contract
Conseil d'administration	Board of directors
Conseil de surveillance	Supervisory council
Convention collective	Sector-specific collective agreement on labor relations
Convention fiscale	Tax agreement

French term	English term
Convention de sécurité sociale	Social security agreement
Crédit d'impôt recherche	R&D tax credit
Décret	Decree
Détachement / salarié détaché	Secondment/seconded salaried employee
Entreprise Unipersonnelle à Responsabilité Limitée (EURL)	Limited liability company with a single shareholder
Gérant	Manager
Greffe du tribunal de commerce	Trade register (Commercial court register)
Groupement d'intérêt économique (GIE)	Incorporated Joint Venture
Inspection du Travail	Labor inspection
Agence Nationale de l'Accueil des Etrangers et des Migrations	National Agency for the Reception of Foreigners and Migration
Plan social	Layoff plan
Prestation de service	Providing a service
Procédure d'introduction	Admission procedure
Préfecture	Local representative of national government in each French department
Prime à l'aménagement du territoire (PAT)	Development grant
Prud'hommes	Labor Tribunal or Labor court
Récépissé	Receipt
Résidence fiscale	Tax residence
Salarié	Salaried employee
Sécurité sociale	Social security
Service des impôts des entreprises (SIE)	Corporate tax office
Société anonyme (SA)	Stock company
Société à responsabilité limitée (SARL)	Limited liability company
Société civile	Non-trading partnership (e.g. real estate or medical services)
Société en commandite par actions	Partnership limited by shares
Société en nom collectif	General partnership
Société par actions simplifiées (SAS)	Simplified corporation
Stagiaire	Trainee
Taxe d'habitation	Housing tax
Taxe foncière	Property tax
Taxe professionnelle	Local Business tax
Taxe sur la valeur ajoutée	Value added tax
Visa de circulation	Circulation visa
Visa court séjour	Short-term visa or short-stay visa
Visa de long séjour	Long-term visa or long-stay visa

Contacts Doing Business in France

Name	Links
Customs administration	www.douane.gouv.fr
Tax administration Tax regulations for companies and individuals Tax agreements	www.impots.gouv.fr
French Environment and energy management agency Public agency responsible for the application of public policy concerning the environment, energy and sustainable development. The "Ademe" helps finance projects in five sectors (waste management, land preservation, energy conservation and renewable energy sources, air pollution and noise pollution) and assists them in their efforts towards sustainable development..	www.ademe.fr
National agency for the reception of foreigners and migration Public administrative service responsible for the reception in France of legal immigrants.	www.anaem.social.fr
National employment agency	www.anpe.fr
Financial Market authority Financial regulations	www.amf-france.org/
Chamber of commerce and industry Information on setting up a business (examples of articles) and general information on legal and tax issues	www.ccip.fr
Center of European and International Liaisons for Social Security Acts as liaison between French social security organizations and those in other countries, for the purposes of regulations and international social security agreements.	www.cleiss.fr
Business formalities center CFE's provide a one stop service for companies to enable them to file a single document concerning the creation, modification or termination of their activity. In general, CFE's are either chambers of commerce and industry or commercial court clerk's offices.	www.annuaire-cfe.insee.fr/AnnuaireCFE/jsp/Contrroleur.jsp www.cfenet.cci.fr/ www.infogreffe.fr/infogreffe/index.jsp
Non-residents tax office Tax office for individuals and companies residing abroad	www.impots.gouv.fr
The French data protection authority The CNIL checks that the law is respected through audits of computer data processing. "Sensitive" data processing is referred to the CNIL for authorization. The CNIL audits the public use of individuals' national identification numbers.	www.cnil.fr
Inter-ministerial delegation for regional development and competitiveness Service of the Prime Minister for the Minister of state, the Minister of ecology, development and sustainable development. The DIACT is jointly responsible with the MINEFI for French clusters. The DIACT is also responsible for the PAT economic development measure in favor of businesses and job creation.	www.diact.gouv.fr

Name	Links
General directorate for competition policy, consumer affairs and fraud control	www.finances.gouv.fr/DGCCRF
Regional directorate for industry, research and the environment Regulations concerning classified facilities	www.drire.gouv.fr www.installationsclassées.ecologie.gouv.fr
Paris commercial court clerk's office Business creations (documents to be submitted with the articles) business takeovers	www.greffe-tc-paris.fr www.actifsjudiciaires.org/
National institute of intellectual property rights Public body, self-financing, reporting to the Ministry of economy, finance and employment, that issues patents, trademarks, design rights and provides access to information concerning industrial property rights and companies.	www.inpi.fr/
Ministry of education	www.education.gouv.fr
Ministry of economy, finance and employment	www.minefe.gouv.fr
French legislation and regulations in force	www.legifrance.gouv.fr
Ministry of further education and research	www.recherche.gouv.fr
Information on the future of the French pension system	www.retraite.cnaf.fr
French government portal	www.service-public.fr
Ministry of ecology, development and sustainable development Regulations concerning building, demolition and renovation permits.	http://www.urbanisme.equipement.gouv.fr/
Ministry of labor, social issues and solidarity - Procedures for admission of foreign salaried employees - addresses of Regional employment offices - practical information on French labor law	www.travail-solidarite.gouv.fr www.travail.gouv.fr
French innovation agency Public agency responsible for financial aid and support in favor of SME's, in collaboration with banks and investment organizations, at crucial phases in the company's life cycle.	www.oseo.fr
Paris Prefecture Issuing and renewal of residence permits for foreign nationals residing in Paris.	www.prefecture-police-paris.interieur.gouv.fr
URSSAF Agency collecting social security charges	www.urssaf.fr www.net-entreprises.fr/html/foreign_companies.htm
European Union	www.europa.eu.int

Club AFII Partners Doing Business in France

Invest in France Agency thanks its corporate partners for their contribution to « Doing Business in France 2008 » and for their ongoing business support to investors to help them develop their international business in France:.

AMYOT Juridique & Fiscal

3, rue Léon Jost
75017 Paris
Contact: Sylvie Scelles - Tave
sscellestave@ajf-avocats.com
+33 (0) 1 53 42 61 45
www.ajf-avocats.com

APEC

51, bld Brune
75014 Paris
Contact: Jacky Chatelain
+33 (0) 1 40 52 23 60
jacky.chatelain@apec.fr
www.apec.fr

BARCLAYS

183, avenue Daumesnil
75012 Paris
Contact: Kevin Wood
+33 (0) 1 55 78 42 80
kevin.wood@barclays.fr
www.barclays.fr

BAKER & MCKENZIE

Baker & McKenzie SCP
1, rue Paul Baudry
75008 Paris
Contact: Valérie Courbier
valerie.courbier@bakernet.com
+33 (0) 1 44 17 53 00
www.bakernet.com

C&D International Dynamix

18, rue Guynemer
92380 Garches
Contact: Marc Franc de la Ferriere
+33 (0) 1 47 95 21 75
mferriere@cdid.fr
www.cdid.fr

DELOITTE TOUCHE TOHMATSU

185, avenue Charles de Gaulle
92524 Neuilly-sur-Seine cedex
Contact: Marie-Ange Andrieux
maandrieux@deloitte.fr
+33 (0) 1 58 37 90 28
www.deloitte.fr

DS Avocats

46, rue de Bassano
75008 Paris
Contact : Olivier Monange
monange@dsavocats.com
+33 (0) 1 53 67 50 38

FIDAG

45, rue Lafayette
75009 Paris
Contact: Alain Girard
alain.girard@fidag.fr
33 (0) 1 42 80 20 81
www.fidag.com

France Industrialisation & Emploi

20, boulevard Montmartre
75009 Paris
Contact: Michel Ghatti
+33 (0) 1 56 64 00 75
m.ghetti@cmi-fie.com
www.cmi-fie.com

GRANT THORNTON

100, rue de Courcelles
75008 Paris
Contact: Frédéric Blanchot
frederic.blanchot@grant-thornton.fr
+33 (0) 1 56 21 05 53
www.grant-thornton.fr

HELMA International Mobility Solutions

132, avenue Charles de Gaulle
92200 Neuilly-sur-Seine
Contact: Ghislain De Rengerve
gderengerve@helma-international.com
+33 (0) 1 46 43 97 10
www.helma-international.com

ISOBEL Audit Consulting

12, rue Pernelle
75004 Paris
Contact: Jean-Fabrice Cauchy
jeanfabricecauchy@groupefnrc.com
+33 (0) 1 45 08 82 90
www.isobel.groupefnrc.com

MAZARS

61, rue Henri Regnault
92075 Paris- La Défense Cedex
Contact: Pierre Sardet
+33 (0) 1 49 97 61 15.
pierre.sardet@mazars.fr
www.mazars.fr

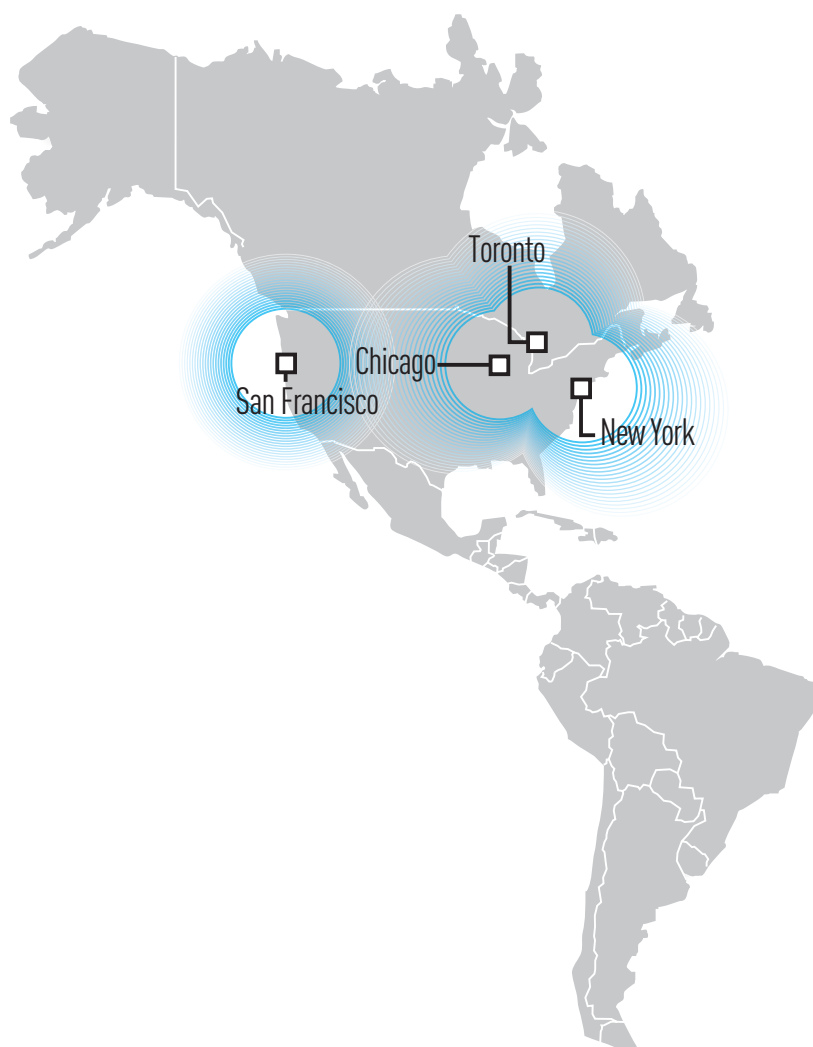
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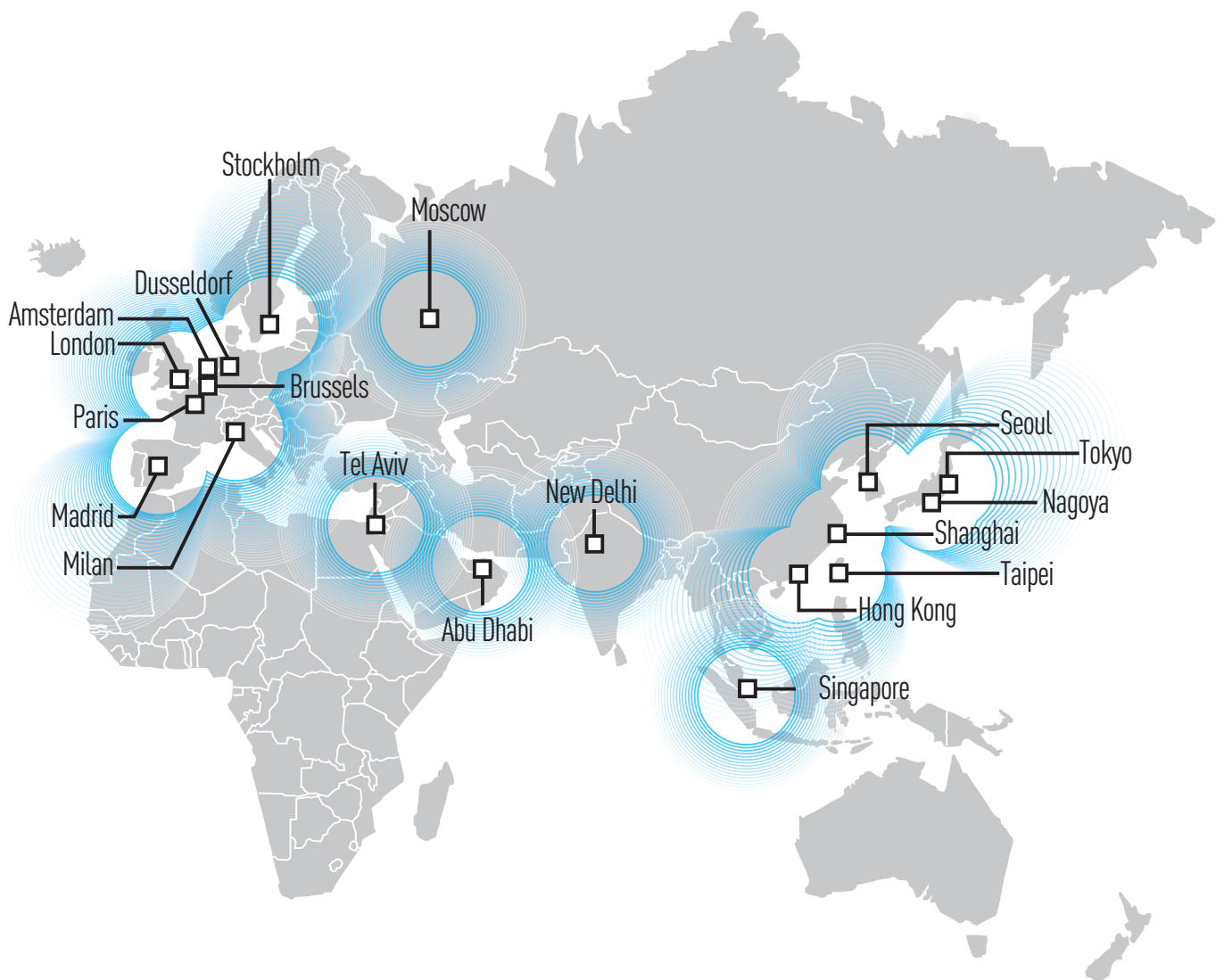
9, rue Royale
75008 Paris
Contact : Corinne Fabre
corinne.fabre@bm.com
+33 (0) 1 53 30 09 14
www.salans.com

“Club AFII Partners” brings together private sector organizations and the Invest in France Agency in order to promote France’s competitive business advantages and to provide professional services to investors. You can access advice from experts in key sectors, and receive all the support you need, on our website www.invest-in-france.org.

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With around 150 of staff members working in 23 different offices around the world, the IFA is established in most of the major economic capitals worldwide. In several other cities or countries, French economic relations sections play an active role in contacting firms that represent potential investors in France.





IFA's network Doing Business in France

EUROPE

IFA FRANCE

PARIS

Philippe Favre
CEO
77, bd Saint Jacques
75680 Paris cedex 14
+33 (0) 1 44 87 17 17
www.investinfrance.org

Sandrine Coquelard
Legal expert, Director Business
Environnement
sandrine.coquelard@
investinfrance.org

Fatia Bouteiller
Legal Expert - Immigration
fatia.bouteiller@investinfrance.org

Arnaud Solignac
Tax Expert
arnaud.solignac@investinfrance.org

IFA GERMANY

DUSSELDORF

Didier Boulogne
Director
Französisches Generalkonsulat
Wirtschafts- und Handelsabteilung
Königsallee 55
D-40212 Düsseldorf
+49 211 86 81 655
germany@investinfrance.org
www.investinfrance.org/Germany

IFA BENELUX

BRUSSELS

Dominique Frachon
Director
475 Avenue Louise
B-1050 Brussels
+32 2 646 59 40
dfrachon@investinfrance.org
www.investinfrance.org/Benelux

IFA NETHERLANDS

AMSTERDAM

Frédérique Lefevre
Agency Manager
Wibautstraat 129
NL-1091 GL Amsterdam
+31 20 662 20 39
benelux@investinfrance.org
www.investinfrance.org/Benelux

IFA SPAIN

MADRID

Géraldine Filippi
Director
Marqués de la Ensenada, 10
4ª Planta
E-28004 Madrid
+34 918 377 850
spain@investinfrance.org
www.investinfrance.org/Spain

IFA ITALY

MILAN

Hervé Pottier
Director
Via Cusani, 10
I-20121 Milano
+39 02 72 02 25 43
italy@investinfrance.org
www.investinfrance.org/Italy

IFA UNITED KINGDOM

LONDON

Philippe Yvergniaux
Director
21 Grosvenor Place
SW1X 7HU London
+44 20 7823 0900
london@investinfrance.org
www.investinfrance.org/UK

IFA SCANDINAVIA

STOCKHOLM

Gilles Debuire
Director
Kungsgatan 58
+46 8 545 850 40
S-11122 Stockholm
nordiccountries@investinfrance.org
www.investinfrance.org/NordicCountries

IFA RUSSIA

MOSCOW

Jean-François Collin
Director
Bolchaïa lakimanka 45
119049 Moscou
Tel. : +7 (495) 937 24 00
jean-francois.collin@missioneco.org
www.investinfrance.org

ASIA

IFA CHINA

SHANGHAI

Pascal Gondrand
Director
Suite 202, Hai Tong Securities Building
No 689, Guang Dong Lu
200001 Shanghai
+86 21 6135 2040
china@investinfrance.org
www.investinfrance.org/China

HONG-KONG

Jean-Claude Bernard
Agency Manager
Admiralty Center, Tower II, 25 th Fl
18 Harcourt Rd
GPO Box No 2421 Hong Kong
+85221583761
hongkong@investinfrance.org
www.investinfrance.org/HongKong

IFA TAIWAN**TAIPEI**

Emmanuel Ly-Batallan
Director
 Bank Tower #1401,
 No 205 TunHwa North Rd.
 Po-Box 118-1361
 105 Taipei
 +886 2 2713 3552
 taiwan@investinfrance.org
 www.investinfrance.org/Taiwan

IFA KOREA**SEOUL**

Antoine Chéry
Director
 Samheug Bldg, 8th Fl
 705-9 Yeoksam -Dong, Kangnam-Ku
 135-711 Seoul
 +822 564 0419
 korea@investinfrance.org
 www.investinfrance.org/Korea

IFA JAPAN**TOKYO**

Christophe Grignon
Director
 Masonic 39 MT bldg. 12F
 2-4-5, Azabudai, Minato-ku
 106-0041 Tokyo
 +81 3 5733 8200
 japan@investinfrance.org
 www.investinfrance.org/Japan

NAGOYA

Kazuko Courron
 Satoka Tonegawa
 Nagoya Daiya Bldg, No. 1 6F
 3-16-22, Meieki, Nakamura-ku
 450-0002 Nagoya
 +81 5 2582 0559
 japan@investinfrance.org
 www.investinfrance.org/Japan

IFA SINGAPORE**SINGAPORE**

Jean-Marie Demange
Director
 Ambassade de France
 101-103 Cluny Park Road
 259595 Singapore
 +65 68 80 78 78
 singapore@missioneco.org
 www.investinfrance.org

IFA INDIA**NEW DELHI**

Jean Leviol
Agency Manager
 2/50 E Shantipath
 Chanakyapuri
 110 021 New Delhi
 +91 11 2419 6300
 india@investinfrance.org
 www.investinfrance.org/India

MIDDLE-EAST**IFA ISRAEL****TEL AVIV**

Dominique Klein
Director
 7, rue Havakuk
 63505 Tel Aviv
 +972 (0) 3 546 65 35
 tel-aviv@missioneco.org
 www.investinfrance.org

IFA UNITED**ARAB EMIRATES****ABU DHABI**

Pierre Mourlevat
Director
 Hamdan Street, Al Masood Tower,
 Suite 1103
 PO Box 4036 Abu Dhabi
 +971 (0)2 633 50 57
 abudhabi@missioneco.org
 www.investinfrance.org

NORTH AMERICA**IFA NORTH AMERICA****NEW YORK**

Olivier Cormier
Director North America
 +12127579340
 Valérie Buchalet
Agency Manager
 810 Seventh Avenue - Suite 3800
 New York, NY 10019
 us@investinfrance.org
 www.investinfrance.org/NorthAmerica

CHICAGO

Ludovic Vallet
Agency Manager
 205 North Michigan Avenue
 Suite 3750
 Chicago, IL 60601
 +13126281054
 us@investinfrance.org
 www.investinfrance.org/NorthAmerica

SAN FRANCISCO

Caroline Laporte
Agency Manager
 88 Kearny Street - suite 700
 San Francisco, CA 94108
 +14157810986
 us@investinfrance.org
 www.investinfrance.org/NorthAmerica

Toronto

20 Queen Street West
 Suite 2004
 Toronto, ON M5H 3R3
 +1 416 977 12 57
 canada@investinfrance.org
 www.investinfrance.org/NorthAmerica

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Invest in France Agency
77, boulevard Saint-Jacques
75 680 Paris Cedex 14 - France
info@investinfrance.org
www.investinfrance.org
Tel: +33 1 44 87 17 17
Fax: +33 1 40 74 73 27

