

Doing Business Guide

France

1st Edition



Aplitec Group
www.groupe-aplitec.com



An Independently Owned and Operated Member of
Morison International

Doing Business in France

1st Edition



Aplitec Group
www.groupe-aplitec.com



An Independently Owned and Operated Member of
Morison International

About This Booklet

This booklet has been produced by the Aplitec Group for the benefit of their clients and associate offices worldwide who are interested in doing business in France.

Its main purpose is to provide a broad overview of the various things that should be taken into account by organisations considering setting up business in France.

The information provided is not exhaustive and – as underlying legislation and regulations are subject to frequent changes – we recommend that anyone considering doing business in France or looking to the area as an opportunity for expansion should seek professional advice before making any business or investment decision.

Aplitec Group

Les Patios Saint Jacques
4–14 rue Ferrus
75014 Paris
France

T: +33 (0)1 40 40 38 38

E: jp.laroze@groupe-aplitech.com

www.groupe-aplitech.com

While every effort has been made to ensure the accuracy of the information contained in this booklet, no responsibility is accepted for its accuracy or completeness. Supplementary information is available on www.investinfrance.org (Public Agency for Investment in France).

Contents

- Introduction..... 2
- Starting a Business 5
- Finding a Location 11
- Financing Your Project 13
- Hiring Staff..... 17
- International Mobility 27
- Tax Legislation for Companies 35

Introduction

Good reasons for investing in France

As the world's fifth largest economy, France has much to offer foreign investors. Companies located there enjoy high-quality transport and communication infrastructures and the presence of a skilled workforce. Another advantage is that France is a gateway to the European market, through both geographic location and its membership of the Eurozone. The Organisation for Economic Co-operation and Development (OECD) ranks France second for quality of life and first as a world tourist destination, with more than 80 million visitors in 2014.

A springboard to the rest of Europe, a qualified and productive workforce, low set-up costs and an attractive tax regime for innovation; make France an ideal country to invest in. France is already home to 20,000 foreign companies, employing a total of 2 million people, who are responsible for one-third of all exports and 22% of research and development (R&D) nationwide.

Such keen interest can be explained by the strategic and central position of France within Europe, with its market of 500 million consumers. It is in fact the only country on that continent offering quick and easy access to its neighbours, with over 11,000 km of motorways, an unrivalled network of high-speed trains (TGVs) connecting it to other major cities such as London, Brussels, Amsterdam and Frankfurt, and a superior network of navigable routes and international airport hubs.

The French workforce is highly qualified, having had the benefit of an education system reputed to be among the best in the world. Its hourly output is also the fourth highest in Europe.

Another reason for investing is low set-up costs, with labour, property, transport and public service costs being the lowest in Europe.

The French regions, connected by attractive and efficient infrastructure networks, also participate by welcoming new foreign investment (with a possible increase of local tax) for industrial and technological specialisations, reinforced locally by the competitiveness clusters (footnote1) and globally through their openness to Europe and the world.

Finally, there are a number of measures in place to support innovation, especially the research tax credit, which is the most incentivised in Europe.

Footnote 1 – Competitiveness clusters is an economic policy framework (developed in 2004) by the French public authorities. The purpose of the policy is to promote competitiveness and industrial development by bringing together large and small firms, research laboratories and educational establishments working in a specific region to develop and collaborate. Other partners may be brought in, such as public authorities, either local or national, as well as firms providing business services.

Innovation, a key factor in investment attractiveness

The capacity for innovation and research is one of France's greatest assets, with strong input from foreign groups, which have ~30% share of business enterprise research and development expenditure in France. Indeed, 75% of foreign company executives questioned cite innovation and R&D activities as one of the main factors in France's investment attractiveness, citing the quality of R&D personnel, possibilities of cooperation with academic research teams, proximity of French innovation clusters and the level of state aid for R&D.

Over the last few years the structure of foreign investment in France has shifted towards projects in intensive technological and value-added sectors – including service activities (e.g. consulting, engineering, software/IT) and industrial activities (e.g. electronic components, energy, chemicals, aerospace, naval and railway materials). As well as assisting growth, such R&D activities create highly qualified roles that are generally more stable than manufacturing jobs.

According to the OECD, France provides the most attractive tax treatment for company R&D – in particular the unique 'research tax credit' incentive: 30% of R&D expenditure up to €100 million, and 5% above this amount.

The advantage of a qualified workforce

France has a highly qualified population of 25–34 year-olds: 43% hold a tertiary qualification – a level close to that of Sweden (42%) or the USA (41%) and much higher than Germany (26%) or Italy (20%).

Researchers are well represented: in 2009 there were 8.3 researchers per 1,000 members of the labour force. France is in third position, ahead of Germany (7.9) and the UK (7.5).

The formidable drawing power of the Île-de-France region

The Île-de-France, with some 75,000 business start-ups each year, is one of Europe's regions with the greatest drawing power. There are many contributing factors: the size of its pool of consumers and employees; the populations high level of qualification (30% are executives and members of higher intellectual professions); its rail, road, air and waterway networks; and its building stock are the best in Europe.

There is also the concentration and diversity of its educational establishments with 17 universities, world-renowned higher education in engineering, commerce and management, and over half a million students. The result is that the Île-de-France has the greatest concentration of R&D in Europe, with 136,000 researchers and technicians.

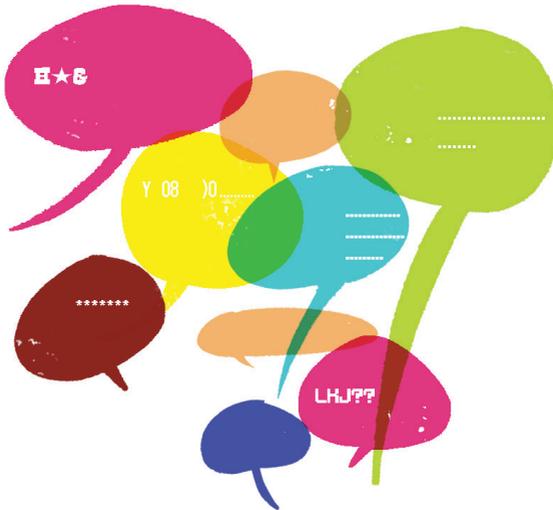
The region's allure is further increased by the fact that there are 10 world or European-ranking high technology clusters, among them: Systematic (complex systems), Cap Digital (digital technologies and applications), Medicen (health), Mov'eo (automobile), Finance Innovation (finance), ASTech (aeronautics) and VMD (eco-technologies and sustainable development).

La Défense, a leading district for European affairs

For sheer size, number of firms accommodated, easy access, jobs offered and diversity of business (offices, shops and accommodation), La Défense is clearly established as an international centre for European affairs.

The district has over 3 million square metres of office space, 600,000 m² of accommodation, 230,000 m² of shops, 2,500 firms, 1,500 headquarters (including those belonging to 15 of the 50 leading global firms), and 150,000 employees, including 90,000 executives.

The area is a favoured location for the headquarters of large companies; this in turn helps to encourage many smaller consultancy firms, audit firms and firms offering IT services to choose La Défense and adjoining districts as their location for business.



Starting a Business

The formalities for setting up businesses are greatly simplified in France. In particular, the whole procedure can be carried out over the internet.

Starting formalities

All the procedures for creating a new company are handled by 'Centres de formalités des entreprises' (CFEs). These handle all administrative details, including setting up, changes to or closing down companies.

It takes a few days for a company or branch to be recorded in the Company Register (*Registre du commerce et des sociétés* – RCS). The cost of administrative formalities is approximately €300. Applications can be completed, and progress tracked, online.

Formalities at the CFE can either be completed directly, as the future legal representative of the company, or you may prefer to delegate powers to a chartered accountant, attorney or employee/partner.

Which business structure?

The choice of business structure in France depends on the investor's strategy and on the degree of independence of the French operations with the parent company.

Short-term solutions: Setting up a liaison office

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

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

Tax law stipulates that liaison offices must pay certain local taxes and social security contributions. Nevertheless, they are not subject to corporate tax or VAT since they are not considered to be permanent establishments (PE).

However, the office may be reclassified as a PE if it conducts commercial activities – that is, when an employee signs contracts on behalf of the foreign company or when the liaison office fulfils a complete manufacturing cycle or acts as a fixed place of business through which the company conducts all or part of its trade.

Companies may ask the tax authorities to rule in advance whether or not their establishment qualifies as a PE in France.

Registering a liaison office is not required in principle, but becomes necessary when the office has its own premises or several employees in France. Declarations are required for:

- The URSSAF (national health insurance) administration, if the liaison office has employees registered with the French social security system
- The local corporate tax office (*Service des impôts des entreprises*; SIE) if the liaison office has no employees registered with the French social security system.

However, when a commercial activity is conducted, the liaison office must be registered as a branch in the Company Register (RCS).

Long-term solutions: Setting up a branch or subsidiary

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

Branches

A branch is not a separate legal entity, and the parent company is responsible for its initiatives. If the branch encounters financial problems, the parent company bears liability for the debts.

A branch is headed by a legal representative, functions like an agency and reports to headquarters. It can carry out all the operations of an industrial or commercial company.

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

Subsidiary

Creating a separate legal entity offers certain advantages, such as segregating the subsidiaries' and parent companies' assets (meaning that foreign companies do not bear unlimited liability for the debts of their French structures), applying for government support when starting up or expanding, or entering into agreements on sales and technical royalties, commissions, etc. The subsidiary must pay all applicable taxes.

Available legal structures

Limited liability companies

In the case of limited liability companies, liability is limited to the amount of the owners' capital contributions.

The most popular are the *Société à responsabilité limitée* (SARL), the *Société par actions simplifiée* (SAS) and the *Société anonyme* (SA). SARLs and SASs can be formed with a single partner, whereas two shareholders are required for an SA. The SA is the most sophisticated type of French company and is able to launch a public offering. In this case the minimum number of shareholders is seven.

The SAS 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.

Choosing a legal structure will affect the company's legal status, taxes, assets and employment relations. Such entities can easily be converted into other forms of company with minimal tax consequences.

The organisation of managing bodies will depend on the form of the company. French company law has kept in step with modern technology: meetings of boards of directors and supervisory boards may now be held remotely (by video-conference or other means) except in cases where company articles stipulate physical meetings or where annual or consolidated financial statements and management reports are to be approved.

The decision of approval is made by partners at the annual general meeting (AGM). The decision to approve the accounts must be made no later than 6 months after closure of the accounts for the financial year.

All limited liability companies must file the annual financial statements (individual and consolidated), management report and auditors' reports as well as the resolution regarding allocation of the profits with the Company Register, within 1 month of the annual accounts being approved or within 2 months when filing formalities are completed online.

	Limited Liability Company (Société À Responsabilité Limitée; SARL)	Public Limited Company (Company Société Anonyme ; SA)	Simplified Stock Company (Société Par Actions Simplifiée; SAS)
Key advantages	Easy to set up and operate.	Structured for "monitored delegation". Public offerings permitted.	At least one partner. Freedom of constitutional arrangements for relations with shareholders, management, the structure and to transfer capital.
Directors	One or more directors, who must not be corporate entities, but do not need to be partners	One individual to be the chairman of the board and CEO, or two individuals to be chairman and CEO7 respectively. Board of directors: three to 18 members, including one or two directors representing employees (if their number exceeds the statutory thresholds) and a statutory auditor.	At least one chairman (individual or corporate entity) and possibly a board with other members. The company can be represented by a person so empowered by the articles (CEO or deputies) in addition to the chairman.

Director's status	A director who is a minority, equal shareholder or non-partner can also have an employment contract if certain conditions are met (work as a subordinate, separate from company officer role).	The director can also have an employment contract if certain conditions are met (work as a subordinate, separate from company officer role).	
Appointment and dismissal of Directors	<ul style="list-style-type: none"> • Decision of partners representing more than half the company shares. • Compensation payable for dismissals without due cause. 	Decided by the board of Directors.	Defined by choice in the articles..
Minimum capital	<ul style="list-style-type: none"> • No minimum: sufficient capital to finance long-term needs. Partners define the amount in the articles. • At least one-fifth of contributions must be paid-up capital when the company is founded and the balance over five years. Restrictions apply to issuing bonds. 	<ul style="list-style-type: none"> • Minimum of €37,000. • Half the capital must be paid up when the company is founded and for the balance over five years. • Public offerings permitted. 	<ul style="list-style-type: none"> • No minimum: sufficient capital to finance long-term needs. partners define the amount in the articles. • At least one-fifth the capital must be paid-up capital when the company is founded and the balance over five years. • Restrictions apply to issuing bonds.
Contributions	Sweat equity ¹ permitted.	No sweat equity permitted.	Sweat equity permitted.
Partners / shareholders	2 to 100 individuals or corporate entities. Or single shareholder (eurl). At least one meeting per year: annual approval of the accounts, review of contracts by simple majority at ordinary general meeting.	At least 2 (with at least one individual). At least one meeting per year: annual approval of the accounts and ordinary decisions by simple majority at ordinary general meeting, changes to the articles require a two-thirds majority at extraordinary general meeting.	At least one (SAS unipersonnelle) 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 EGM.	For an EGM, 25% of voting rights on first notice and 20% on second notice. For an ordinary general meeting, 20% on first notice and no quorum on second notice	According to the articles; no obligation to hold an annual meeting of shareholders.
Blocking minority	EGMs: 33% + 1 vote for amendments to the articles. Ordinary general meetings: 50% of voting rights +1 (or majority of votes on second notice).	1/3 of votes at EGM. 50% of votes in ordinary general meeting	According to the articles.
Liability of partners / shareholders	Limited to contributions, except in civil or criminal lawsuits.		
Transfers	Buyer pays a 3% filing fee, equal deduction for each share, to the ratio between €23,000 and the total number of shares in the company.	Buyer pays a filing fee of 0.1% (unless exempted transactions).	
Auditor	Auditor necessary if company exceeds two of the three thresholds below: net turnover over €3. 1 million; total balance sheet over €1.55 million; more than 50 employees.	Statutory auditor required.	Statutory auditor required for companies held by (or holding) another company otherwise a statutory auditor is required if company exceeds two of the following three thresholds: turnover > €2 million; total balance sheet > €1 million; over 20 employees.
Tax system	Corporate tax or option of paying income tax (if company is less than five years old and has fewer than 50 employees) or if the company comprises members of the same family.	Corporate tax or option of paying income tax (if company is less than five years old and has fewer than 50 employees).	

1 Sweat equity: a partner offers the company his time, work and professional knowledge. Does not contribute to forming the capital but has right to shares in the company.

Partnership structures

These are mainly general partnerships (*Société en nom collectif*; SNC), non-trading partnerships (*Société civile*) and economic interest groupings (*Groupement d'intérêt économique*; GIE).

Partnership structures are less common because they imply 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, unless decisions must usually be unanimous in SNCs and GIEs, and fiscal transparency makes them attractive as subsidiary companies.

A special form of company, the *Société en participation*, is often used in the construction industry and in the performing arts and publishing sectors.

Partnership structures are very simple to set up (no RCS registration is required) and no legal announcements are required.

European company

Businesses present in at least in two member states of the European Union (EU) can opt for European Company status (*Société européenne*; SE).

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

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

Protecting intellectual property

The administrative formalities to protect patents, trademarks, designs and models are filed with the French Patent and Trademark Office (Institut national de la propriété industrielle; INPI). It's also possible to request that legal protections granted in other countries be extended to France and Europe.

Note that company names, trade names, logos and domain names are also protected from their first use and can be cited in unfair competition lawsuits.

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

Finding a Location

Short-term options

In order to meet temporary needs, it's possible to set up the registered address and conduct business:

- at the director's personal address
- in a business centre (*Centre d'affaires* or *Centre de domiciliation*) offering services such as a telephone, meeting rooms, mailboxes, etc.
- in premises offered by local authorities, such as business incubators (*Pépinières d'entreprise*)
- in other companies' premises (subletting, or by signing a short-term lease for ≤ 24 months).

Long-term options

Commercial leases are the most common option

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

The statutory term for commercial leases is 9 years, but tenants can terminate the lease at the end of the third or sixth year. Tenants are legally protected against non-renewal or eviction. The lessor must pay eviction compensation proportionate to the value of the business and the right to the lease.

Rent increases are capped. The lease stipulates the commercial purpose of the premises, but the parties can agree to amend the lease to change the initial purpose or to add another activity.

Full ownership

Foreign companies are entitled to buy commercial and industrial land and buildings from private and public-sector owners. The laws governing property purchases and the services of intermediaries such as notaries ensure the legal security of real-estate transactions.

Property finance lease

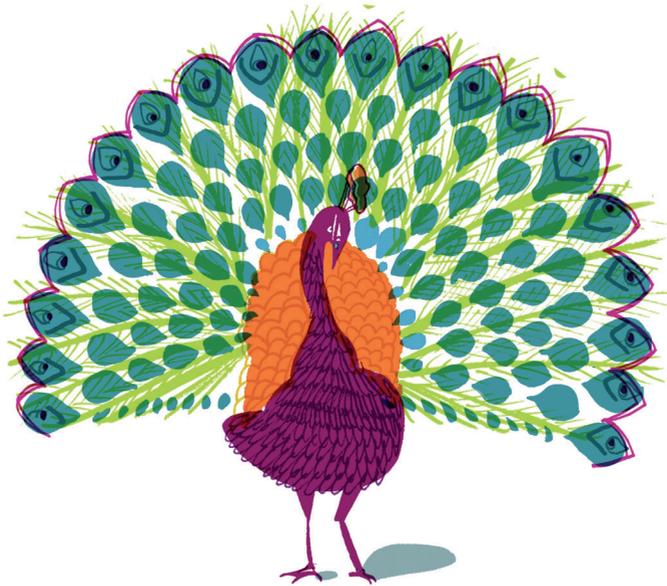
Many companies acquire industrial and commercial buildings by signing a property finance lease, generally for 9–15 years. The title to the property is transferred to the tenant at the end of the term. Local authorities may help companies to obtain finance leases by arranging meetings with financing organisations.

Construction of industrial and commercial buildings

Foreign investors can erect industrial and commercial buildings in France. Local maps show zones in which construction is allowed and mayors have the power to authorise construction by issuing planning permission and construction permits. The municipal offices offer a one-stop service for construction permit applications.

Acquiring premises through a real-estate partnership (SCI)

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



Financing Your Project

A large range of financing support has been set up in France in response to the needs of investors. This support depends on the type of investment project, its location and the type of company conducting the project (large company, mid-size company, or small to medium-sized enterprise [SME]).

Support from the French authorities comes in various forms:

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

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

Support from French authorities for investment and job creation

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

Support is provided in many different forms, to cover either investment expenses (buildings, land and equipment) over 3 years, or the cost of job creation arising from the investment (estimated salaries and social security contributions over 2 years).

Each form of support is subject to specific eligibility conditions. Investment projects receiving aid are required to remain in the same region for 5 years (large companies) or 3 years (SMEs).

If an investment project exceeds €50 million, government intervention must be reduced to comply with EU rules.

Financial support from banks

France's public investment bank (BPI France)

BPI France, France's public investment bank, assists companies with fewer than 5,000 employees, to expand in France and increase their exports, from the start-up phase through to stock market listing.

BPI France offers support ranging from loans to equity capital adapted for every step of their development:

- Initial investment requirements (funding, guarantees and innovation)
- Venture capital and growth capital, leveraged build-ups, co-financing and guarantees
- Growth capital and business transfers, co-financing, export credits and assistance.

Banks

All foreign companies can access banking services in France either directly or through an establishment or subsidiary in France, provided that they have sufficient collateral.

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

Funding for training and recruitment

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

Funding for job creation

Summary of employment-related support:

Recruitment support	Description
Competitiveness and Employment Tax Credit (CICE)	<ul style="list-style-type: none"> • Corporate tax credit equal to 6% of the gross annual payroll for all salaries up to 2.5 times the statutory national minimum wage (SMIC¹).
Reduced Employer Social Security Contributions	<ul style="list-style-type: none"> • “Fillon” reduction: reduced employer social security contributions for salaries up to 1.6 times the statutory national minimum wage (SMIC). • Exemption from employer social security contributions, for five or seven years, for investments in employment priority areas (BERs¹), military restructuring areas (ZRDs¹) and urban enterprise areas (ZDUs¹). • Subsidised employment contracts: integration contracts, apprenticeship contracts and professional training contracts.
Subsidies and Repayable Advances	<ul style="list-style-type: none"> • Subsidised employment contracts (integration contracts, apprenticeship contracts, professional training contracts and work-study contracts) • Minimum wage integration contracts (<i>contrats d'avenir</i>) • Employment funding granted by local authorities.

¹ SMIC - statutory national minimum wage; BER - employment priority area; ZDU - urban enterprise area.

Funding for employee training

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

These programmes can partly cover costs (including payments) to train leaders, travel expenses for training leaders and employees being trained, other overheads, depreciation of training equipment, related consultancy fees and time taken off work by employees being trained.

The level of funding depends of the type of training and the size and location of the business.

Support for innovation, research and development

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

Government support for innovation, research and development in the private sector is mainly provided by France's research tax credit. This tax credit is calculated at 30% of annual research expenditure on R&D operations carried out in France. Furthermore, the innovative new company (*jeune entreprise innovante*; JEI) status enables eligible companies to receive special benefits to encourage their development in France (tax relief, social security contribution exemptions, and exemptions on capital gains from equity transfers).

In addition to this very attractive tax environment, the French authorities have created state funding tools for R&D projects within the EU framework that are administered by various ministries (notably the ministries for the economy, industry, research and ecology) and public-sector organisations, including BPI France, France's public investment bank, and the National Research Agency (*Agence nationale de la recherche*). Regional and local authorities can also provide additional support in this area.

Funding is available from the French government's €35 billion national investment programme, which focuses largely on research and development. These funds are administered by various bodies and may be awarded through calls for projects in support of programmes of excellence in the form of grants, repayable advances and equity or quasi-equity investments. (For further information about current calls for projects, see <http://investissement-avenir.gouvernement.fr>.)

Support for environmental investments

The French authorities may award grants to companies for investments that protect the environment. These subsidies may cover up to 50% of expenditure for large companies and 60% for SMEs. In principle, the amount of support is calculated according to the additional investment costs arising from environmental protection. Depending on the measure being claimed, any profits or operating costs associated with the additional investments may have to be deducted from this base.

Eligible investments are expenditure on property, plants and equipment to reduce pollution, noise and odours, and to protect the environment. Consideration may also be given to expenses relating to technology transfers through operating licences and the acquisition of expertise, patented or otherwise. The level of funding depends on the type of investment for environmental protection.

Government agencies and other public bodies able to provide support for environmental investments include the French Agency for the Environment and Energy (Agence de l'environnement et de la maîtrise de l'énergie; ADEME), the French Water Agency (Agence de l'eau), and guarantee funds for investments in energy savings and renewables (*Fonds de Garantie des Investissements de Maîtrise de l'Énergie* [FOGIME] and *Fonds d'Investissements de l'Environnement et de la Maîtrise de l'Énergie* [FIDEME]).



Hiring Staff

Employment relations within a company

Employment relations within companies are governed by the French Labour Code (*Code du travail*) and industry-specific collective agreements. Contractual clauses can provide for greater flexibility in employment relationships, provided they are not contrary to the French Labour Code or to any collective agreement that applies to the employer.

Employment contracts

Employers can hire employees according to their needs, using the different kinds of employment contract outlined below.

Permanent contracts

Although permanent contracts (*contrat à durée indéterminée*; CDI) do not necessarily have to be a written document, they are usually documented, and if so must be written in French.

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

The contract may also provide for a probationary period, which may be as long as 4 months for a managerial post (renewable once if an industry-specific agreement allows this).

The statutory national minimum wage (SMIC) is €9.67 gross per hour in 2016, representing €1,465.68 per month for a 35-hour work week, or €1,634.23 per month for a 39-hour working week including a 25% increase for overtime hours (35–39 hours).

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

Probationary periods give employers a chance to evaluate an employee's skills. Employers can terminate an employment contract during the probationary period without having to provide grounds or severance pay. The probationary period and the terms of its renewal must be clearly stated, either in the appointment letter or the employment contract, in order to be enforceable.

The probationary period under permanent contracts depends on the employment status of the employee (up to 2 months for those with worker (*ouvrier*) and employee (*employé*) status or technician (*technicien*) status, up to 4 months for those with executive status (*cadre*).

Probationary periods can be extended once for 4, 6 or 8 months (including the renewal period) depending on the employee's position and whether an industry-specific collective agreement authorises this.

Fixed-term contracts

Employees can also be hired for a limited time to meet temporary needs. However, French law restricts the use of fixed-term contracts (*contrat à durée déterminée*; CDD) and temporary agency employees to specific situations and generally sets an upper limit of 18 months on such arrangements.

Reasons for fixed-term contracts are:

- Temporary increase in the company's business
- Seasonal work
- Special assignment for a skilled employee or an engineer
- Replacement of an absent employee
- Replacement of an employee who has temporarily moved to part-time work
- Gap before a new employee takes up their post.

Fixed-term contracts cannot however be used on a long-term basis to fill jobs that are related to the company's regular business.

The contract must specify in particular the duration of the assignment and the reason why the contract is being made (see bulleted list, above).

Employers can terminate an employment contract during the probationary period without having to provide grounds or severance pay. The probationary period under fixed-term contracts of up to 6 months is 1 day per week of the contract, and may not exceed 2 weeks. The probationary period for longer contracts may not exceed 1 month.

The maximum contract duration depends on the reason for the fixed-term contract, with a maximum of 18–36 months.

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

Changing an employee's contract

Changing an essential component of an employment contract

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

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

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

Simple changes to working conditions

In these cases, employers can impose the change upon their managerial authority. Refusal on the part of the employee does not lead automatically to termination of the contract, but may constitute professional misconduct, which the employer could invoke to dismiss them on these grounds.

Hiring procedures

The administrative formalities involved in hiring employees have been streamlined with the introduction of a pre-hiring declaration form for new employees (*déclaration préalable à l'embauche*; DPAE). The employer must complete the form in the 8-day period before a new employee starts work and send it to the local URSSAF office.

In addition to the DPAE, employers must also:

- Declare the first employee hired to the labour inspection
- Register with supplementary retirement funds within 3 months of setting up the business
- Register with the unemployment insurance body (*Pôle Emploi*)
- Organise the mandatory medical examination (during the probationary period)
- Carry out the necessary procedures for hiring a foreign employee (excluding European nationals).

Terminating a permanent employment contract by mutual consent

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

At least one interview is required to enable both the employer and the employee to agree upon the termination and to determine the accompanying conditions (no formal legal procedure). The employee may be assisted by a person of their choice from among the company personnel.

The employer and employee sign an agreement in writing, setting out the termination date and conditions including the payment due to the employee. The employer and employee then have 15 calendar days during which they can withdraw their position.

The agreement must then be approved by the employment authorities (*Direction régionale des entreprises, de la concurrence, de la consommation, du travail et de l'emploi*; DIRECCTE) within 15 working days, subject to the checking that the procedure has been carried out correctly.

The amount of severance pay received by the employee from the employer must be at least equal to the statutory or contractual severance pay due.

Layoffs on economic grounds

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

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

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

Such layoffs may be individual or collective.

Individual layoffs

Individual employees must be asked to attend a preliminary interview before they are dismissed. The head of the company must meet with the works council and consult with it about collective dismissals. Layoffs of individuals and of two to nine employees can only become effective 7 days after the interview date, or 15 days later in the case of management personnel.

Collective layoffs

A job preservation plan (*Plan de sauvegarde de l'emploi*; PSE) must be drawn up when a business with 50 employees or more decides to dismiss 10 or more employees in a given 30-day period. This plan must explain all action taken to avoid job losses. The plan must also explain the financial terms of the severance package. It is then submitted to the employee representatives and the employment authorities.

Severance pay for layoffs on economic grounds is at least one-fifth of the employee's monthly pay (including bonuses) for each year of service after 1 year, increased by two-fifteenths of the employee's monthly pay for each additional year beyond 10 years.

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

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

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

Layoffs on personal grounds

Personal dismissal procedures can be initiated for misconduct on the part of the employee or for actions that fall short of misconduct but nevertheless significantly harm the company's interests. A warning is often issued before initiating the dismissal procedure. The employee must be given an opportunity to provide explanations at a preliminary interview, before the dismissal becomes effective. The employer must also comply with the notice period to which the employee is entitled by law or the relevant collective agreement. In principle, the notice period is 2 months for employees with more than 2 years of service.

Employees dismissed on personal grounds are now entitled to severance pay equal to that paid for layoffs on economic grounds.

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

Retirement

Retirement decided by the employer: in principle, employees cannot be forced by their employer to retire before age 70. The employer can, however, propose retirement to an employee once they reach the age of 65–67, depending on their date of birth.

The minimum age for voluntary retirement is 62 for people born after 1955. Early retirement is, however, possible for people who entered employment at an early age or who are permanently incapacitated.

Retirement pension benefits are paid by specific benefit offices.

Profit-sharing and employee savings plans

In addition to their wages and salaries, employees and company directors may be offered attractive employee profit-sharing schemes and savings plans. The range of schemes available enables companies to set up pay and benefit systems tailored to their specific needs, including supplementary retirement and family benefits, stock options, corporate and inter-company employee savings plans.

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

Procedures for implementing these schemes are established by an agreement between employer and employee representatives. These schemes are collective and individual arrangements are not permitted.

Provisions can also be made for employee savings plans such as PERCO which promotes retirement saving, or PEE for constituting a securities portfolio.

PERCO: is a collective retirement savings plan. It is implemented by the employer or as part of a collective agreement. Employers that choose to contribute benefit from social contributions exemptions on their payments. Funds are held until retirement when they are released in the form of a pension or capital. Funds will only be released under exceptional circumstances.

PEE: is a company savings plan, set up by a company (with fewer than 250 employees) through an agreement with the social partners or by unilateral decision of the employer. Employees can make voluntary contributions that their company can complete via a matching contribution scheme. An incentive is that they are exempt from income tax (in all cases profit-sharing is exempt from social security contributions). Money is blocked for 5 years and funds will only be released under exceptional circumstances.

Tax and social security relief apply to sums that have been frozen for 5 years; sums paid out immediately are only eligible for social security contributions relief.

For Your Business	Social Security Contributions	Tax
Mandatory profit sharing (participation)	<ul style="list-style-type: none"> Exempt from social security contributions Fixed 20% security contribution. 	<ul style="list-style-type: none"> Exempt from deductions to finance apprenticeships, training and housing Sums allocated to a special participation reserve fund deducted from taxable profits.
Voluntary profit sharing (participation)	<ul style="list-style-type: none"> Exempt from social security contributions Fixed 20% security contribution. 	<ul style="list-style-type: none"> Sums allocated deducted from taxable income Exempt from deductions to finance apprenticeships, training and housing.

For Your Employees	Social Security Contributions	Tax
Mandatory profit sharing (participation)	<ul style="list-style-type: none"> Exempt from social security contributions Subject to CSG and CRDS deductions Additional social security deductions (6.80%). 	<ul style="list-style-type: none"> Not taxable (except interest on frozen accounts received annually and not reinvested).
Voluntary profit sharing (participation)	<ul style="list-style-type: none"> Exempt from social security contributions Subject to CSG¹ and CRDS¹ deductions. 	<ul style="list-style-type: none"> Not taxable provided profit-sharing is within the framework on an employee savings plan and no more than half of the annual social security limit.

¹ CSG-CRDS are specific contributions (surtaxes), due on all kinds of revenues apart from salary contributions. The rate is 7.5% for CSG and 0.5 % for CRDS, i.e. an additional contribution of 8%.

Employee representation

The employee representation system varies according to the size of the company and concerns three separate institutions, described below.

Obligations for companies with at least 11 employees

In companies with at least 11 employees, employee representatives are elected by the employees to present individual and collective pay claims and to ensure compliance with employment laws.

Obligations for companies with more than 50 employees

Works council:

A works council (*Comité d'entreprise*) must be set up when a company has at least 50 employees. The council is elected for a period of 4 years by the employees to represent their interests when decisions are made about economic changes in the company (such as company development and changes in work organisation) and social and cultural issues. If the company has fewer than 200 employees, the employer may decide, after consultation with employee representatives, to opt for a single employee representation delegation which combines employee and works council representatives in the same elected body.

Safety committee

Establishments with at least 50 employees must also set up a joint safety committee (*Comité d'hygiène, de sécurité et des conditions de travail*; CHSCT) to involve employees in training and other initiatives to prevent occupational risks and improve working conditions.

Bargaining units of trade unions

Only union representatives have the power to negotiate and enter into collective agreements. Where there are no union representatives, an industry-wide agreement may allow the employer to negotiate with elected employee representatives, either those making up the works council or those chosen as delegates. Failing this, the employer may be also authorised to negotiate with an employee designated for this purpose. The result of these negotiations must then be submitted to employees for approval by a majority of votes.

Trade unions are also entitled to set up bargaining units within a company

Working hours: Agreement negotiated within the company

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

The 35-hour week

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

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

The maximum working hours is 10 hours per day and 48 hours in any one week, with a maximum average of 44 hours per week over a 12-week period.

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

For hours beyond 35 hours a week, French law states a 25% pay increase for the first 8 hours and then 50% thereafter. A collective agreement may provide for a lower rate, but it may not be less than 10%. The payment of overtime can be substituted by time off in lieu if this arrangement is provided for in a collective agreement.

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

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

Flat-rate agreements (hours per days worked)

Provision can be made for flat-rate agreements covering hours or days worked for independent skilled and non-skilled employees who are free to organise their own work time. In such cases, a flat-rate agreement must be signed with the employee.

Flat-rate agreements in days are generally offered to executive employees. The maximum day package is 218 days per year, implying additional 'time off' up to normal vacation paid leave (generally around 10 days).

Vacation paid leave

Employees in France are entitled to 5 weeks of paid leave. The employer can refuse to let an employee take paid leave if the workload is too great. However, employers must let employees take at least 4 weeks of paid leave between 1 May and 31 October. In addition to paid vacation, there are 10 bank holidays as well as possible personal leave days (births, marriages and bereavements).

Organising work time over the year by averaging pay

Companies have several ways of adjusting working hours to suit their business requirements without incurring extra payroll costs. Organisational arrangements of working time can be set up within the framework of collective agreements which can organise working hours over a period of longer than a week to up to a year.

Within the framework of these organisational arrangements, when the company experiences uneven fluctuations in business which can be forecast, working hours can be increased or cut in certain periods without incurring additional costs or exceeding statutory limits.

High-quality social security cover

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

Benefit package offered to employees

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

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

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

Maternity/paternity leave

Social security provides female employees paid maternity leave of up to 16 weeks (6 weeks before the birth and 10 weeks after) while fathers receive 11 days of paid paternity leave in the first 4 weeks after the birth.

Employees receive supplementary reimbursements for illnesses and maternity expenses through supplementary insurance plans.

Old age pensions

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

Family benefits

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

Accidents at work

The system is backed up by compulsory unemployment insurance schemes. Employers are free to add other insurance coverage to suit their employees.

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

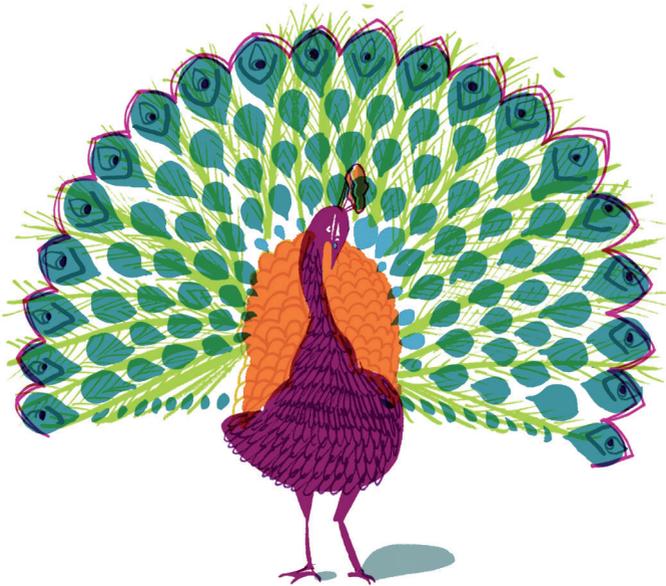
Social security contributions

Contributions amount to 42% on average of gross wages and the employees' share amounts to nearly 21%. Employer social security contributions are substantially lower on low wages. Depending on the size of the company (more or fewer than 20 employees), they vary between 17% and 21% on behalf of employees earning the statutory national minimum wage (SMIC).

The competitiveness and employment tax credit (*Crédit d'impôt pour la compétitivité et l'emploi*; CICE) also applies at a rate of 6% of payroll, excluding salaries higher than 2.5 times the statutory national minimum wage. This tax credit has been implemented by the government in order to decrease social costs for companies.

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

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



International Mobility

Admission conditions for foreign nationals

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

Within 3 months of arriving in France, foreign nationals are summoned by the French Immigration and Citizenship Office (OFII) to pass a medical examination.

Short-stay visa

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

Business people wishing to conduct business relations in France without actually residing in the country may request a circulation visa. The circulation visa is a specific Schengen visa issued for a total period of 1–5 years, thereby saving holders with legitimate business activities in France from having to apply for a new visa each time they travel.

The short-stay visa does not authorise the holder to engage in paid employment in France, for which a work permit must be obtained. As such, when a company wishes to send or receive an expatriate employee in France for an assignment of less than 3 months, the reason for the stay must be specified:

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

Long-stay visa

Foreign (not EU) nationals who wish to stay in France longer than 90 days for personal reasons (family reunion, retirement, etc.) or professional reasons (to set up a company, or engage in paid employment, etc.) must submit an application for a long-stay visa to the French consular authorities in their country of residence.

The long-stay visa is in principle valid for a 3-month period, during which the visa holder must go to the *Préfecture* to complete the administrative formalities to obtain the residence permit corresponding to the reason for the stay: expatriate employee, research scientist, skills and expertise, etc.

Some categories of foreign national are issued a long-stay visa equivalent to a residence permit (*Visa long séjour valant titre de séjour*), which is valid for 3–12 months and does not require the holder to apply at the *Préfecture* for a residence permit for the first year. This simplified procedure is available to students, research scientists, interns, and employees with a work contract at a company based in France and employees whose foreign-based company has temporarily seconded them to work in France for a period of 3–12 months (except for intra-group transfers).

Flexible conditions for nationals from the EU 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. They must simply register with the *mairie* (municipal offices) of their commune within 3 months of their arrival.

Paid employment

Immigration procedures depend on the type of activity being conducted by the foreign national. In this respect, a distinction should be made between a salaried employee and a company director, which each have to follow a different procedure to obtain specific residence permits.

Temporary residence permits for foreign company directors

Company directors comprise of independent business people (*commerçants*), self-employed entrepreneurs (*artisans*), the director of a SARL (*Société à responsabilité limitée* – limited liability company), the CEO of a SA (*Société anonyme* – public limited company), or the individual (*personne physique*) with the authority to direct a foreign company in France (representative of a branch or a liaison office).

Setting up a company in France does not require any specific formalities to be undertaken by nationals from EU member states or those from Iceland, Lichtenstein, Norway or Switzerland. They just have to register with the Company Register (RCS) by submitting the supporting documents required for their specific type of company.

Similarly, nationals from countries other than EU or EEA member states who are directors of a company in France, but do not intend to live there, are subject to the same rules as those that apply to French and European nationals. They must also comply with the rules governing short-stay visas.

For foreign company directors wishing to relocate to France, it's necessary to apply to residence permits, depending on the scope of their business project.

Skills and expertise residence permit

This residence permit is valid for 3 years on a renewable basis. It concerns directors wishing to start or take over a company that meets one of the following criteria:

- Investment of at least €300,000 (tangible and intangible assets)

- Creation of at least two jobs
- Creation of a subsidiary whose parent company has existed for at least 2 years
- Salary of the legal representative equal to at least three times the national minimum wage (SMIC), i.e. €4,396 gross per month as of 1 January 2016.

If the conditions for issuing a skills and expertise residence permit are not met, they can apply for a 'business activity' visa, which is valid for 1 year on a renewable basis.

Exceptional economic contribution residence permits

A foreign national who wishes to make an investment in France of over €10 million, or plans to create or save at least 50 jobs, can apply for an exceptional economic contribution residence permit, valid for a 10-year period (on a renewable basis). Spouses are also granted a 10-year residence permit.

Temporary residence permits for employees

In principle, a work permit is required to engage in salaried employment in France for nationals from countries other than EU or EEA member states.

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

EU blue card

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

- Hold a degree certifying at least 3 years of higher education or have at least 5 years of professional experience
- Have an employment contract lasting at least 1 year
- Earn a salary worth at least 1.5 times the "reference" gross salary. i.e. €52,750 gross per year in 2015.

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

Once the procedure is complete, the employee receives a renewable 3-year residence permit and their family members are given a private and family life temporary residence permit valid for the same period.

Expatriate employee temporary residence permit

This 3-year residence permit (renewable subject to certain conditions) is specifically reserved for intra-group transfers. It can be issued either for a secondment or for an expatriation.

The following conditions must be met to receive this permit:

- The work contract must have been valid for at least 3 months

- The secondment or expatriation must be to a company in the same group or an organisation belonging to the same company
- Gross monthly salary must be equal to at least 1.5 times the statutory national minimum wage (SMIC), i.e. €2,197 as of 1 January 2016.

If the expatriate employee permit holder resides in France continuously for more than 6 months, family members can apply for the private and family life temporary residence permit, which is valid for 3 years and automatically enables family members to seek paid employment.

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

For the holders of long-stay visas equivalent to a residence permit, which are valid for up to 1 year, no residence permit is necessary for the first year of residence in France. After the first year, foreign nationals must apply for the residence permit applicable to their situation.

Specificities for transnational secondment

A foreign company may temporarily assign employees to France in order to provide services for a subcontracting contract or to conduct an operation independently without a service contract.

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

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

The foreign-based company (or its representative) begins the work permit application procedure at the local employment authorities where the work is to be performed.

If the secondment is for a period of less than 3 months, in addition to the short-stay visa a temporary work permit (*Autorisation provisoire de travail*) is required.

If the secondment is for a period of more than 3 months, employees must hold a long-stay visa equivalent to a 'temporary worker' residence permit.

If the assignment is for more than 3 months, the employer must pay the OFII a fee in accordance with the employee's salary. Foreign companies must also make a mandatory preliminary declaration to the regional employment inspector in the location where the process is taking place.

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

Health cover and social security benefits for foreign employees

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

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

Principle of territoriality

The French social security system is based on the principle of territoriality: foreign employees working in France are, in principle, subject to French health cover and social security legislation, regardless of their nationality or the location of their employer. As a consequence the salary and benefits paid to foreign employees are subject to all social security contributions at current rates, payable to the mandatory and supplementary schemes. In return, employees and their families are covered by the French social security system.

However, in exceptional cases, an exemption may be possible from basic retirement insurance (without supplementary retirement benefits) for foreign employees who make a joint request with their employer based in France. To become exempted, proof must be supplied of registration with an insurance scheme. The applicant must not have been registered with a mandatory French retirement scheme, or the social security scheme of a member state bound by EU rules for coordinating social security systems, during the 5 years prior to the application. This exemption is granted for 3 years. It may be renewed for the same period.

Foreign employees may continue to contribute to optional social security schemes in their home countries.

Exemptions from French social security contributions in case of secondment

Nationals of countries that have signed bilateral agreements with France may remain registered with the social security system of their country of origin during their secondment in France. In practice, the employees must supply proof of their registration in their country of origin to be able to benefit from the application of bilateral social security agreements.

The length of the secondment is limited by a specific clause in the bilateral agreement, although it can be renewed.

An exemption may be requested in order to extend the term of the secondment if the assignment is expected to exceed 2 years or run over the full 2-year term. Each member state determines the maximum secondment term it agrees to grant.

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

Tax regulations for employees

Criteria for tax residency

Tax residency depends on legal or reciprocal agreements and treaties. Registration with the French social security system has no bearing on determining tax residency.

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

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

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

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

Income tax system for tax residents

General

Salaries are taxable after deduction of social security contributions and all other mandatory contributions and business expenses. With regard to business expenses, tax residents can choose between a flat deduction of 10% or a real deduction corresponding to their actual amount (subject to presentation of supporting documents).

A French resident's income is taxed at progressively higher rates (see table).

2015 Income Bracket (by allowance unit)	Tax Rates in 2016
From €9,700 to €26,791 inclusive	14%
From €26,791 to €71,826 inclusive	30%
From €71,826 to €152,108 inclusive	41%
More than €152,108	45%

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

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

With a view to balancing the government budget, an exceptional tax on high incomes has been introduced that amounts to 3% of taxable household income between €250,000 and €500,000 for people filing single returns, and between €500,000 and €1 million for joint returns. This rate goes up to 4% for the portion of taxable household income that is higher than €500,000 for single people and €1 million for couples.

A special exemption scheme for expatriates

The tax system for expatriate personnel is open to any person, regardless of their nationality, coming to work in France and deemed to be recognised as French tax residents according to the criteria outlined below.

The person must have been called to work for a company in France (regardless of the host company's nationality) and must not have been a tax resident in France during the 5 calendar years prior to the date they commenced their post.

To immediately benefit from this exemption, the person must determine their tax residence in France by 31 December of the year following the year during which they commenced their post (i.e. by December 2016 at the latest for a post in France beginning during the course of 2015).

The expatriate exemption scheme applies for up to 5 years starting in the first full year after assuming their new position.

Beneficiaries of the system receive exemption from:

- Income tax on any additional remuneration (expatriation bonuses) directly related to their professional activity in France, on condition the net taxable salary, excluding the expatriation bonus, is at least equivalent to the net comparative salary for an employee in France
- Bonuses for work undertaken abroad in the direct interest and for the exclusive benefit of the company.

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

At the same time, many mobility-related allowances are fully exempted from income tax, e.g. payments for a reconnaissance trip, furniture storage costs in the country of origin, agency fees incurred by looking for accommodation in France, costs of removal and a return trip at

the start and end of the stay in France, schooling costs for any children who are dependent for tax purposes, etc.

Provision is also made in the system for a 50% exemption over a 5-year period on income from securities, copyright royalties, and capital gains from transfers of shares and ownership interests from a foreign source.

During the same period, expatriates are nevertheless liable to pay the wealth tax (*Impôt de solidarité sur la fortune*; ISF) on their assets located in France. Thereafter, expatriates must pay ISF on accumulated assets located in France and abroad. ISF is only payable on net taxable assets over €1.3 million.

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

Income tax system for non-tax residents

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

Salaries paid to non-residents are subject to tax deduction at source at a rate of up to 20% for the portion of remuneration exceeding €41,909, unless otherwise provided for by a tax treaty.

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

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

Furthermore, most international taxation treaties make provision for temporary secondments, whereby income earned through salaried work in a country is not judged to be taxable in that country if the beneficiary resides there for less than 183 days per year and if their remuneration is paid by or on behalf of an employer who is not resident in that country. Under these circumstances, there is no taxation at all in France.

Tax Legislation for Companies

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

A single gateway operated by the Public Finance Directorate (*Direction générale des finances publiques*; DGFIP) of the French government provides foreign investors with information about tax. The service, which enables foreign investors to invest in France in a clear and secure legal framework, can be emailed to tax4business@dgifp.finances.gouv.fr.

Corporate tax

Taxation based on realised earnings

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

- Subsidiaries
- Branches
- Permanent establishments.

If a branch or a permanent establishment is not a separate legal entity, its earnings from activities in France are reconstituted using the financial statements of the foreign company. Each individual tax treaty defines the notion of a permanent establishment as a fixed place of business or a dependent agent (as defined in Article 5 of the OECD Model Tax Convention). One of the most common examples of this in practice is that when a foreign company sends one of its employees to France to prospect the French market, it runs no risk of being considered a permanent establishment in France. But once the employee signs contracts in France on behalf of the foreign company, the company is deemed to have a permanent establishment in France, and is subject to tax on the profit earned by this business in France.

An advance ruling procedure (*rescrit*) enables any company already set up in France, or planning to do so, to ask the tax authorities to rule whether or not it has a permanent establishment in France; the authorities will then reply within 3 months.

Calculating taxable earnings

Income subject to corporate tax (*impôt sur les sociétés*; IS) is calculated by deducting eligible expenses from income. Income comprises all of the proceeds from the sale of goods and the provision of services. Deductible expenses are those related to the company's business. They include:

- Depreciation and amortisation (excluding goodwill and land)

- Provisions
- Rent for buildings and equipment
- Salaries
- Social security contributions
- Taxes and duties (unless otherwise specified)
- Goods purchased
- Energy consumption
- Advertising
- Financial expenses, etc.

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

- Up to €3 million of the net financial charges (the difference between financial income and financial charges in the same category) are fully deductible. For amounts above €3 million, deductible financial charges are capped at 75%. Other rules apply to financial transactions between companies in the same group, specifically with regard to the risks of maximising intra-subsidiary interest rates or optimising due to undercapitalising subsidiaries with the highest debt
- So-called sumptuary expenses and private passenger vehicles for which the deductible depreciation allowance and lease payments are capped, depending on the situation
- As a general rule, all types of fees between companies in the same group are deductible if the transactions are invoiced in line with market prices and actually take place. Amounts invoiced within an international group are subject to international laws on transfer pricing.

Generous depreciation rules

Fixed assets are depreciated on a straight-line basis over their expected useful life. In the case of certain production assets bought new with a minimum 3-year depreciation period, acceleration multiples ranging from 1.25 to 2.25 may be applied to the straight-line depreciation rates, depending on the normal useful life of the assets concerned (declining balance scheme).

Allowable provisions for depreciation

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

Tax rates on companies

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

- **For large companies:** Standard rate of 33.33% plus, for companies with pre-tax turnover of over €7,630,000, an additional social contribution of 1.1%, i.e. a rate of 34.43%. As of 1 January 2014 and until 31 December 2016, companies with over €250 million in turnover must pay an exceptional contribution equal to 10.7% of the corporate tax due.
- **For SMEs:** Reduced corporate tax rate of 15% up to €38,120 of profits and standard 33.33% rate on the remainder. SMEs are exempt from paying the additional social contribution of 1.1%.
- **Proceeds from intellectual property:** Royalties and capital gains on the transfer of patents, if they have been held for at least 2 years) are eligible for a reduced rate of 15%. This affects patents, inventions that can be patented and manufacturing processes as well as improvements made to patents and patentable inventions.
- **Dividends:** Companies that own a stake of at least 5% in another company for at least 2 years, are exempted from corporate tax on the dividends received except for a portion of 5% of these dividends which is taxable at the standard of reduced rate depending on cases.
- **Capital gains:** Capital gains on the sale of shares held for at least 2 years are totally exempted except for a portion of 12% of the gains. This exemption no longer applies to transferred securities of companies located in a state considered as non-cooperative for tax purposes.

Carrying losses forward (or back)

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

Losses can be carried forward indefinitely.

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

Carry-back rules

Carry-back rules allow the current year's loss to be offset only against taxable income in the previous year and only up to the profit recorded in the previous tax year or €1 million, whichever is smaller. This results in a non-taxable claim against the French tax administration for previously paid taxes. French tax administration will reimburse this tax receivable after 5 years if the company fails to deduct it from its forthcoming corporate tax bills.

Groups of companies: Flexible rules for tax consolidation

Under the tax consolidation scheme, companies in the same group may opt for overall taxation. This enables groups of companies to offset income and losses recorded in France from their consolidated businesses and eliminate intercompany transactions. Tax credits that

apply to one company in the group, for example the research tax credit, can be transferred to the consolidating company that is subject to corporate tax, and thus be deducted from tax to be paid by the group.

The tax consolidation option may apply once the French subsidiaries in the consolidated group are at least 95% owned, directly or indirectly, by a French parent company. The financial years of the parent company and its subsidiaries must also coincide. Groups may choose this option for a 5-year period. It automatically ceases to apply if ownership conditions are no longer met.

French subsidiaries owned through a European company (located within the EU, Norway or Iceland) not subject to corporate tax in France can now be considered part of a consolidated group.

Companies in corporate groups may choose to apply the optional VAT payment consolidation scheme. Only the consolidating company will have to pay the VAT balance on behalf of the group's companies. This balance will be calculated as the difference between taxes owed and any tax credits due on the tax returns filed by the group's members. The parent company must directly or indirectly hold a stake of at least 50% in the subsidiaries' capital or voting rights. As such, the scope of the VAT payment consolidation will not in theory match the scope of tax consolidation in the corporate tax system.

Ways to repatriate earnings

Taxation of dividends received through a holding company

Holding companies established in France, and which have held a stake of at least 5% for 2 years or more in each of its French or foreign subsidiaries, are only taxed on a portion of 5% on their redistributed dividends. This scheme presents considerable advantages because it results in a minimum effective tax rate of 1.67% ($5\% \times 33.3\%$) on the dividends paid out by their subsidiaries.

Moreover, when securities that have been held for at least 2 years are transferred, tax is levied on 12% of the net gain. Holding companies are also eligible for the tax consolidation scheme.

Taxation of dividends paid out of France

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

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

Dividends paid out to a resident of the European Union

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

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

Dividends paid out to a resident outside the EU

Most of the tax treaties France has signed with major industrial nations provide for the application of a withholding tax on dividends with a standard rate of 5% for companies (subject to a minimum stake in the subsidiary created in France) or 15% for individuals. If no tax treaty exists, the withholding tax is 30%.

Earnings from securities and royalties

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

Higher rates for tax havens

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

Invoicing of interests, royalties or management fees

French tax administration accept the invoicing of interests, royalties or managements fees as far as the amounts invoiced are justified and in line with the prices for arm's-length transactions between independent companies. The French authorities may demand evidence that transfer prices are in line with actual market prices.

Value added tax and customs duty

VAT

When companies are formed, the French tax authorities assign them an EU VAT number.

Companies merely collect the VAT on their own sales and services and deduct the amount of VAT that they have paid on purchases of goods and services. This is reported in a monthly, quarterly or annual statement based on sales and the amount of VAT paid during the previous year.

Depending on the size of the company, this declaration is sent to either the corporate tax office (*Service des impôts des entreprises*; SIE) or the large business tax office (*Direction des grandes entreprises*; DGE) before the deadline set by the French tax authorities.

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

Sales of goods outside France are fully exempt from VAT.

France's standard VAT rate on sales of goods and services is 20%, but there are several reduced rates. There is a 10% tax rate on restaurants, hotels, public transport, newspapers and magazines and certain leisure activities. The rate on food, books (including those

downloaded online), construction and renovation of social housing and certain agricultural products is 5.5%, while the rate on medications is either 5.5% or 2.1%.

Uniform customs regulations throughout the EU

Exchanges of goods within the EU

Customs duty is only charged once goods enter French territory. Goods entering France to be redispached to another EU member state are exempt from customs duty and VAT.

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

Companies are not required to complete any administrative formalities for the movement of most types of goods between EU countries. They are only required to file an intrastate declaration of trade in goods (DEB). Companies delivering or importing goods worth more than €460,000 a year to or from another member state must file a DEB form each month. The form provides information about product categories, countries of origin and destination, values and weights.

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

Companies providing services to businesses located in other EU member states must file an EU VAT return with the French customs authorities if the company in the other member state has already paid the VAT. This form must be filed online when sales exceed €32,600.

Clearance of non-EU goods

Imports and exports of goods between EU member states and other countries require a customs declaration, which must be filed using the single administrative document (SAD). The main items on the SAD are the name of the company and the type, origin and value of the goods, net of tax. The SAD information is used to calculate the duties and taxes due. It is also used for statistical purposes to count units of goods.

Local taxes paid by companies

Local economic contribution

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

The CET is capped at 3% of the company's value added.

The corporate property contribution (CFE)

The CFE is assessed annually by the municipalities that set the tax rate for businesses located in their area. The tax base comprises the rental value of fixed assets subject to the corporate property contribution (buildings and land used for business purposes) that the company occupied at the end of the closing of the financial year N-2, with N being the tax year.

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

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

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

The contribution for value added by businesses (CVAE)

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

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

The CVAE rate varies between 0.5% and 1.5%. The extent of the reduced rate depends on the company's annual turnover. The CVAE is calculated based on VA that is capped at either 80% or 85% of turnover depending on whether the company's turnover is under or over €7.6 million.

Property tax

Companies are subject to property tax (*taxe foncière*) on the rental value of land (property tax on unconstructed land) and buildings (property tax on constructed land). Land with buildings or infrastructure in place are included in the constructed land category. The tax base is equal to the land registry rental value minus a standard 50% rebate for buildings or 20% for land.

The same methods used to determine the CFE are applied to assess the land registry rental value for buildings.

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

Property tax is payable by the building or land owner on 1 January each year. As such, a company created after 1 January of Year N will not owe property tax for the start-up year.

Tax incentives for investors

Tax credits

France's research tax credit incentives are among the most attractive in the world. Manufacturing, trading and agricultural companies that spend money on research are eligible to receive a tax credit which can then be offset against their corporate tax liability. If they do not owe any tax due to a lack of profits, they will receive the research tax credit (*crédit d'impôt recherche*; CIR) in the form of a cash rebate after a 3-year period. SMEs (as defined by the EU), innovative new companies (JEIs), start-ups and ailing companies qualify for an immediate research tax credit rebate (in Year N+1).

To be eligible for the research tax credit, expenditure must be on basic research, applied research (test model of a product, operation or method) or experimental development (use of prototypes or pilot equipment). Companies may request an advance ruling from the tax authorities to see whether their operations qualify for the research tax credit; the tax authorities are then required to respond within 3 months. As of 1 January, the application can be submitted after operations have begun, but at least 6 months before the research tax credit return is filed (form no. 2069).

The research tax credit amounts to, 30% of total annual expenditure on research activities up to €100 million, and 5% of annual expenditure above this level.

Eligible research expenditure includes:

- Personnel cost (gross salaries and social security contributions) for researchers and research technicians working directly on research, plus an additional 50% of these amounts as flat-rate operating expenses
- Gross salaries and social security contributions for junior final-year doctoral and post-doctoral research personnel that are counted in the research tax credit base at 400% of their value for the first 2 years of their first permanent contract. Thereafter, their salaries are recorded as research personnel costs
- Depreciation of infrastructure and equipment used directly for research operations, plus an additional 75% as flat-rate operating expenses
- Spending on technology watch (up to €60,000 per year)
- 50% of standardisation costs
- Depreciation of patents acquired for research purposes
- Bonuses and payments relating to patent insurance contracts (up to €60,000 per year)
- Expenses incurred for the filing, maintenance and protection of patents and plant variety rights.

A tax credit to boost corporate competitiveness and employment

A new competitiveness and employment tax credit (*credit d'impôt pour la compétitivité et l'emploi*; CICE) was introduced in 2013. It amounts to 6% of remuneration paid as of 1 January 2016 for all salaries up to 2.5 times the statutory national minimum wage (SMIC).

The CICE is not capped and can be offset against any corporate tax (*impôt sur les sociétés*; IS) that a company owes for the year in which the payments were made. The remainder of the tax credit is a government credit that can be used to pay taxes owed over the next 3 years or reimbursed if it is not spent during that time. Certain companies like SMEs, innovative new companies (JEIs) and ailing companies may receive the credit immediately.

The CICE only covers gross pay up to 2.5 times the statutory national minimum wage (SMIC), i.e. €49,950 in total per annum as of 1 January 2016 (based on a 35-hour working week). Salaries higher than this threshold are completely excluded from this tax credit.

Cinema/audio-visual tax credit to encourage creativity in France

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

The tax credit rate (cinema or audio-visual, as applicable) is calculated for each financial year and amounts to 20% of eligible technical expenses. The cinema tax credit is capped at €4 million, regardless of the type of production.

Tax credit for video games

Video game development companies subject to corporate tax are entitled to a tax credit for video game development expenses which meet specific criteria and are approved by the National Center for Cinema and Animation (*Centre national du cinéma et de l'image animée*; CNC). To be eligible for the tax credit, games must incur development costs higher than or equal to €150,000, and also contribute to French or European cultural creativity in the video-gaming field, as well as variety and quality.

The tax credit equals 20% of total eligible expenditure.

Temporary exemption from corporate tax for new companies

Innovative new companies (*jeunes entreprises innovantes*; JEIs) are entitled to generous tax advantages. Specific measures exist to help new companies whose R&D spending accounts for at least 15% of their tax-deductible costs.

The innovative new companies tax status grants beneficiaries the following exemptions:

- Full exemption from corporate tax (*impôt sur les sociétés*; IS) in the first profitable year and then a partial exemption (50%) in the following profitable year
- Total tax breaks are capped at €200,000 in any 3-year period.

Furthermore, the salaries paid to these companies' research personnel are fully exempt from employer social security contributions for 4 years and then on a diminishing basis for the following 4 years.

These measures are for SMEs created in the last 8 years with under 250 employees, turnover of less than €50 million or total assets of less than €43 million that are more than 50% owned by individuals or by companies that meet the same criteria.

Sales of shares in these companies are exempt from capital gains tax if the seller has held the shares for 3 or more years and if the direct or indirect ownership of the seller, their spouse/partner and their ascendants/descendants has not exceeded 25% of profit and voting rights since the shares were acquired.



The Next Step

Contact Aplitec Group to discuss your needs.

Aplitec Group

Les Patios Saint Jacques

4–14 rue Ferrus

75014 Paris

France

T: +33 (0)1 40 40 38 38

E: jp.larroze@groupe-aplitec.com

www.groupe-aplitec.com

Disclaimer: Morison International Limited (MI) is a global association of independent professional firms. Professional services are provided by individual member firms. MI does not provide professional services in its own right. No member firm is liable for the acts or omissions of any other member firm arising from its membership of MI.



An Independently Owned and Operated Member of
Morison International

