

# Doing Business in France (Overview)

---

## I. LEGAL

### Liaison office

---

Although a liaison office representing a foreign company in France does not need to be registered as such, the office must be registered if it does not limit itself to mere representation but also engages in commercial activities.

### Branch

---

This structure enables foreign entities wishing to develop their business in France to establish a foothold in the French territory without creating a new structure.

A branch is an extension of a foreign company in France. As a matter of fact, it is not separate legal entity.

French government recognizes the legal personality of companies organised under the laws of most foreign jurisdictions. Likewise, French branches of foreign companies are granted legal capacity.

The internal operations of such branches are governed by the foreign Law applicable to the branch's head office. As far as external transactions are concerned, the national laws of the country where the branch is organised are applicable.

Branches are managed by a legal representative entitled by headquarters. They enjoy the full power to engage the entity in their decisions and have no legal restriction to carry out all the industrial and commercial operations.

Nevertheless, parent companies are unlimitedly responsible for their decisions: if branches encounter financial problems and are no longer in a position to take charge of their debts, the parent companies bear unlimited liability.

Branches are permanent establishments. Therefore, they are subject to the French tax laws and must pay corporate income tax as well as VAT.

## Subsidiary

A subsidiary is a company with its own legal entity whose capital is mainly held by another company, the head office.

In France, different kinds of legal structures exist: the most common forms are the limited liabilities companies like SARL, SA or SAS.

Here is a comparison of key criteria:

	<i>Société a responsabilité limitée</i> (SARL)  <b>= Limited Liability Company</b>	<i>Société anonyme</i> (SA) usual form  <b>= Public Limited Company</b>	<i>Société par actions simplifiées</i> (SAS)  <b>= Joint Stock Company</b>
<b>Key advantages</b>	Easy to set up and operate.	Structured for “monitored delegation”. Organization of ownership.	At least one partner. Freedom of constitutional arrangements for relations with shareholders, management, structure and transfer of capital.
<b>Directors</b>	One or more directors, who must not be corporate entities, but do not need to be partners.	One individual to be the Chairman of the Board and CEO or two individuals to be Chairman and CEO respectively. Deputy CEOs (up to 5). Board of directors with 3 to 18 members and a statutory auditor.	At least 1 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).
<b>Director’s status</b>	A director who is a minority or equal shareholder can also have an employment contract if certain conditions are met (work separate from company officer role, management hierarchy).	The Chairman can also have an employment contract if certain conditions are met (work separate from company officer role, management hierarchy).	Same as an SA as regards simultaneously holding both company officer position and employment contract.

<p><b>Appointment and dismissal of Directors</b></p>	<p>Decision of partners representing more than half the company shares. Compensation payable for dismissals without due cause.</p>	<p>Decided by the Board of Directors.</p>	<p>Defined by choice in the articles.</p>
<p><b>Minimum capital</b></p>	<p>None: sufficient capital to finance long-term needs. Partners define the amount in the articles. Restrictions apply to issuing bonds. At least one fifth of contributions must be paid-up capital at the time and must remain so for a period of 5 years.</p>	<p>€37,000. Public offerings permitted. Half the capital must be paid up at the time and must remain so for 5 years.</p>	<p>None: sufficient capital to finance long-term needs. The amount is defined in the articles. No public offerings permitted but an offer may be made to accredited investors. Half the capital must be paid up at the time and must remain so for a period of 5 years.</p>
<p><b>Contributions</b></p>	<p>Sweat equity permitted: a partner offers the company his time, work and professional knowledge. Does not contribute to forming the capital but has right to shares in company (share of profits and participation in collective decisions).</p>	<p>No sweat equity permitted.</p>	<p>Sweat equity permitted.</p>
<p><b>Partners / shareholders</b></p>	<p>2 to 100 individuals or corporate entities. Or single shareholder (EURL). At least 1 meeting per year: annual approval of the accounts, review of contracts by simple majority at Ordinary General Meeting.</p>	<p>At least 7 (with at least one individual). At least 1 meeting per year: annual approval of the accounts and ordinary decisions by simple majority at Ordinary General Meeting, changes to the articles require 2/3 majority at Extraordinary General Meeting.</p>	<p>At least 1 (SAS unipersonnelle) individual or corporate entity. Only certain decisions made by Ordinary General Meeting: approval of the accounts, mergers, changes in capital, liquidation.</p>

<b>Quorums for meetings</b>	25% of voting rights on first notice and 20% on second notice of Extraordinary General Meeting. (SARL)	For an Extraordinary General Meeting, 25% of voting rights on first notice and 20% on second notice. For an Ordinary General Meeting, 20% on first notice and no quorum on second notice.	According to the articles; no obligation to hold an annual meeting of shareholders.
<b>Blocking minority</b>	Extraordinary General Meetings: 33% + 1 vote for amendments to the articles. Ordinary General Meetings: 50% of voting rights + 1 (or majority of votes on second notice).	1/3 of votes at Extraordinary General Meeting. 50% of votes in Ordinary General Meeting.	According to the articles.
<b>Liability of partners / shareholders</b>	Limited to contributions, except in civil or criminal lawsuits.	Limited to contributions, except in civil or criminal lawsuits.	Limited to contributions, except in civil or criminal lawsuits.
<b>Transfers</b>	Buyer pays a 3% filing fee. Equal deduction for each share, to the ratio between €23,000 and the total number of shares in the company.	Buyer pays a filing fee* of: - 3% on amounts under €200,000, - 0.5% on amounts between €200,000 and €500,000,000, and - 0.25% above €500,000,000.	
<b>Auditors</b>	Auditor necessary if company exceeds two of the three thresholds below: net turnover over €3.1 million; total balance sheet over €1.55 million; more than 50 employees.	Statutory auditor required.	Statutory auditor required for companies held by (or holding) another company OTHERWISE Statutory auditor required if company exceeds two of the following three thresholds: Pre-tax turnover > €2 million; total balance sheet > €1 million; over 20 employees.

<b>Tax system</b>	Corporate tax or option of paying income tax (if company is less than 5 years old and has fewer than 50 employees).	Corporate tax or option of paying income tax (if company is less than 5 years old and has fewer than 50 employees).	Corporate tax or option of paying income tax (if company is less than 5 years old and has fewer than 50 employees).
-------------------	---	---	---

\*Unless the transaction is exempt, such as the acquisition of ownership interests when buying back the company's own shares or raising capital; when buying a company that is undergoing an insolvency or bankruptcy protection procedure (*sauvegarde* or *redressement judiciaire*); when companies are members of an integrated group; and when partial assets are contributed for mergers.

## 2. TAX

### Corporate tax

Corporate tax is an annual tax on the total profits made in France by companies and other corporate bodies. Any foreign company doing business in France is subject to this tax on its earnings, regardless its form.

- *Territoriality of the corporate tax*

Profits of an enterprise shall be taxable only in its country unless the enterprise carries on business in another country through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other country but only so much of them as is attributable to that permanent establishment.

- *Standard rate*

The standard of the corporate tax is 33.33% of profits but can be lowered for small business. Small businesses defined by Europe.

- *Small business rate*

The corporate tax rate is different than the 33.33% for small business. When the turnover is below 7.6 M€ and when the capital is held at least at 75% by individuals or companies meeting the same conditions, the corporate tax rate is only 15% on the first 38,120 € of profits.

Remaining profits are taxed at the standard rate of 33.33%.

- *Losses: carry back/carry forward*

Losses can be carry forward without any limit of time and/or carry back on the profits of the last three fiscal years if any. In that case, the company is allowed to get its money back or to deduct it from the next corporate tax payments.

It is highly recommended for a permanent establishment or a branch to manage its own accounting system and financial statements, even if it is not a separate legal entity.

If not, the entity may not be in a position to declare easily its earnings to the French administration.

Under certain conditions, a group of companies can consolidate their fiscal results and offset losses with profits generated during the same year. It is a five years option that only concerns holding and their subsidiaries whose percentage of interest is at least equal to 95%.

- *Tax deduction at source*

Benefits made in France by foreign companies are rated as being distributed. As a consequence, such earnings are liable to an additional tax of 25%: the tax deduction at source (except for companies located in EU that are exempt from this tax).

- *Tax agreements*

Tax agreements exist between many countries on a bilateral basis to prevent double taxation (taxes levied twice on the same income, profit, capital gain, inheritance or other item). In some countries they are also known as double taxation agreements, double tax treaties, or tax information exchange agreements (TIEA).

In fact these are Double Taxation Avoidance Treaties i.e. treaties to avoid tax is levied twice in two different countries.

Most developed countries have a large number of tax treaties. The United Kingdom has treaties with more than 110 countries and territories.

### **3. EMPLOYMENT**

**Any employee working in France, regardless of his nationality, is subject to the French labour regulations.**

---

In accordance with the principle of territoriality, employees working in France, whether exclusively or not, must be registered with the French Social Security system, regardless their nationality and their place of residence. The employers' place of business has no impact on that rule too.

As a matter of fact, the employer must pay social security contributions to the French URSSAF (French office in charge of the social contributions collection).

Labour relations are governed by the French Labour Code and by collective bargained agreements that reflect the practices of each sector.

Employers must provide a pay slip each time they pay an employee. Employee social security contributions are deducted from gross salary.

The employee and employer contributions are then paid to the different statutory social security bodies.

It is the employer's responsibility to insure the relevant declarations and contribution payments have been made properly to the URSSAF, Pôle Emploi, AGIRC and ARCCO.

- Company with no place of business in France

Foreign companies with no place of business in France but seconding employees on the French territory are liable to pay social contributions to the French URSSAF, regardless the secondment duration.

Before seconding staff in France, foreign companies must carry out administrative formalities and register to the following organisations:

- INSEE (the French office for statistics);
- Pôle emploi (unemployment insurance agency);
- Direction départementale du travail, de l'emploi et de la formation professionnelle, DDTEFP (Directorate for Work and Vocational training);
- Caisse régionale d'assurance maladie (regional sickness fund).

This registration can be performed thru one single process with the French URSSAF.

Once the registration is completed, a SIRET identification number will be assigned to the company.

Employers can appoint a representative in France in order to fill returns and to pay contributions on their behalf. Such representatives are personally responsible.

- A representative: What for?

Foreign companies can appoint a single representative in France whose responsibility will be to ensure that all the company's social obligations regarding payment and declarations are carried out for the whole of the workforce. This representative can be an employee.

If no representative is assigned, employers are responsible for the declaration and payment of Social Security contributions.

- Hiring

Companies intending to recruit employee have to carry out administrative formalities.

First of all, the employer must fill in a single form called DUE (Déclaration unique d'embauche) prior to hiring each new employee. This simple declaration enables employers to complete all hiring formalities at once.

Once it is completed, this form must be sent to the local URSSAF office. It can also be carried out online thru the URSSAF website. This single procedure covers both the registration of the new employee to the social security system, the affiliation to the organization of the mandatory medical check-up and the affiliation to the unemployment insurance regime (Pôle Emploi).

In addition to the DUE, the employer may also have to carry out the required procedures for hiring a foreign member of staff if any (excluding European workers).

- Incentives

There are a number of employment incentives whose nature and content differ according to the target populations. These incentives consist for the most part in a reduction of social security contributions as well as special premiums.

Employment incentives essentially aim to encourage youth employment, research in France, and facilitate the return to work of persons who have encountered particular difficulties.