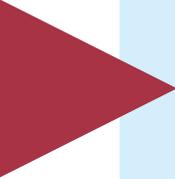


MAKE A *FRENCH* START
10 insights to grow
your business in France

**SETTING UP BUSINESS
IN FRANCE**



FORWARD

MAKE A *FRENCH* START
10 insights to grow
your business in France

France, the leading host country for job-creating foreign investments in France and number 1 for the location of industrial and R&D projects¹, is a market of consumers and workers that is very important for foreign investors, from many points of view:

- A qualified, operational workforce in sufficient numbers that is one of the most productive in the world,
- The fastest growing cost-competitiveness of the major Eurozone countries,
- Significant entrepreneurial momentum with a strong increase in the number of business start-ups (+6% compared with 2% on average in the European Union),
- Strategic geographic positioning supported by operational infrastructures that ensure freight transport both within France and abroad,
- An economic dynamism that is favourable to the increase in commercial and financial transactions,
- A tax policy that supports innovation and research, in particular through one of the best research tax credits in the OECD countries,
- A resolutely pro-employment social policy with massive investment in the skills of the future.

Building on its strengths, in the summer of 2017 France also started implementing the structural transformation of its business environment through in-depth reforms of labour law, taxation and the streamlining of administrative procedures. With increased flexibility and security in workforce management, a corporate tax rate that will be gradually reduced to 25% by 2022, a reduction in the taxation of capital income and a further reduction in the cost of labour, France's attractiveness has increased significantly.

With effect from March 2020, this structural reform base was further strengthened by an emergency plan of an unparalleled scale designed to protect business, that is faced with an unprecedented global economic crisis. In addition to this emergency plan, there is an ambitious €100 billion stimulus plan (#France Relance) aimed at accelerating the modernization of the French economy and encouraging massive investments in favour of the jobs of the future and ecological transition - digital transition, decarbonization of industry and massive investments in the industrial sectors of the future (health, biotechnologies, agri-food, sustainable transport, waste treatment and green energy, quantum processing).

Thus, as a result of the reforms initiated in 2017 and the support provided to companies to deal with the health crisis, France has been able to demonstrate its resilience and will return to its 2019 level of economic activity as early as 2022.

Mazars and Business France, being convinced of the attractiveness of France and its ability to bounce back, have combined their skills and put together three booklets in order to make it easier for you to set up your projects in France (taxation, social environment and corporate law).

Mazars is an internationally recognised consulting, auditing, tax and accounting services company with 40,400 employees in 91 countries.

Business France is the French agency in charge of internationalising the economy, and supports more than 1,000 foreign investment projects each year.

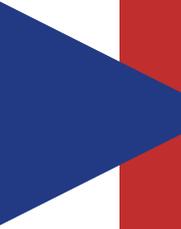
Enjoy your read and Welcome to France!

Marc Biasibetti
Partner – Mazars

Caroline Devoucoux
Partner – Mazars

Marie-Cécile Tardieu
COO of Business France
Invest - Business France

1 : Annual report on foreign investments, Business France, 2020



DISCLAIMER

MAKE A *FRENCH* START
10 insights to grow
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Drawing on conversations with hundreds of foreign business leaders looking to set up in France and all of their combined experience, Business France and Mazars have identified **10 key questions on this issue to which this guide seeks to provide some initial answers.**

However, by their very nature, the various schemes discussed hereafter are subject to potential regulatory changes. Should you wish to obtain the very latest information, and for any further enquiries, we would therefore recommend that you contact Mazars and Business France experts, whose details can be found at the end of this guide.



INTRODUCTION

MAKE A *FRENCH* START
10 insights to grow
your business in France

France is back!

France is a popular destination for foreign investors, who deem its economy to be attractive and inventive. Eighty-three percent of foreign decision makers believe that France is undertaking positive reforms to modernize its economy, while 88% now see France as an attractive environment for investment.²

Company directors appear convinced that France has undertaken an ambitious program of reforms to boost the performance of its competitive model and become even more welcoming to foreign companies.

This latest booklet from our “Make A French Start!” collection is geared towards offering international investors greater clarity regarding the key stages involved in establishing a company in France, from choosing a legal status and selecting a marketing channel, to meeting accounting obligations.

Our multi-disciplinary teams have also contributed practical advice to this publication, to make the decision-making process more straightforward when it comes to accessing commercial premises or conducting acquisitions in France.

Entrepreneurs, enjoy your read!

2: 2018 Kantar Public survey of 700 foreign senior executives.



INSIGHTS

#1 WHAT TYPE OF ESTABLISHMENT SHOULD I SET UP IN FRANCE?

P. 10

#2 UNDER WHAT LEGAL FORM SHOULD I SET UP MY ESTABLISHMENT?

P. 18

#3 WHAT ARE THE KEY STAGES INVOLVED IN ESTABLISHING MY COMPANY?

P. 22

#4 WHAT CRITERIA WILL THE DIRECTOR OF THE ENTITY NEED TO MEET?

P. 28

#5 UNDER WHAT TERMS CAN I RENT BUSINESS PREMISES?

P. 32

#6 WHAT ACCOUNTING AND COMPLIANCE OBLIGATIONS MUST I FULFILL?

P. 36

#7 WHAT ARE THE
DIFFERENT WAYS
OF ACQUIRING
A COMPANY?

P. 44

#8 WHICH MARKETING
CHANNEL IS BEST
SUITED TO MY BUSINESS
ACTIVITIES?

P. 52

#9 WHAT COMMERCIAL
DOCUMENTS DO I
NEED TO LAUNCH MY
BUSINESS?

P. 56

#10 GDPR: HOW TO BE
COMPLIANT

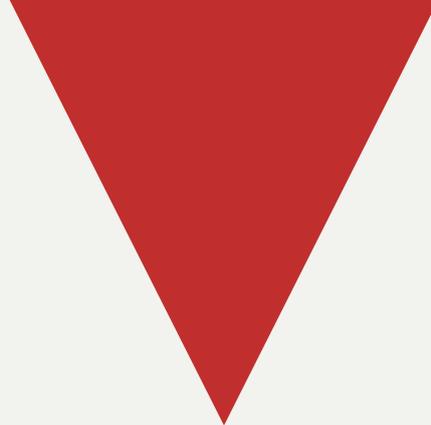
P. 62

#11 WHAT ARE THE
LEGAL FORMS AVAILABLE
FOR CARRYING OUT
A NON-PROFIT ACTIVITY
IN FRANCE?

P. 66

OUR SERVICES

P. 72



WHAT TYPE OF ESTABLISHMENT SHOULD I SET UP IN FRANCE?

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10 insights to grow your business in France

A foreign company can be established in France by setting up a legal entity whose form can range from the simplest to the most complex, and from the most dependent on the parent entity to the most autonomous.

The legal forms presented below (Liaison office, Branch and Corporation) cater for a variety of needs and expectations. They require varying levels of investment and relate to different stages of development on French territory. **The type of entity selected will depend on criteria linked to the project's state of progress, the perceived risk, the size of the company or even the type of business activity envisaged.**

However, it will still be possible to change the entity's form as the business grows.

1. Liaison office: the least restrictive type of entity

The liaison office is the least restrictive type of entity for those setting up business in France for the first time. It is an advantageous observation point that enables a foreign company to make its first contacts in France with the various partners with which it will have to deal (customers, suppliers, banks, investors, etc.), to collect information (in particular to see whether the market in which it wishes to establish itself is viable), to provide information on behalf of the foreign company or to advertise its existence.

The liaison office thus only plays a role of relay, preparing the negotiations between customers in France and the foreign company.

The purpose of the liaison office is not to engage in commercial activity and to conclude contracts in the name and on behalf of the foreign company. If commercial relations are envisaged in France, invoices and contracts must be sent and signed directly by the foreign company, without passing through the liaison office, which only intervenes in a limited and preparatory manner.

The liaison office does not have an independent legal personality and is therefore not required to keep accounts. As it carries out only a preparatory or ancillary activity, it is not classed as a stable establishment for tax purposes.

If the liaison office conducts commercial transactions, it is liable to be classified as a permanent establishment. The liaison office will then become subject to tax in France.

In France, the registration of the liaison office with the RCS is not mandatory insofar as no commercial activity is carried out. A simple declaration of existence to the Business Formalities Centre of the CCI is required in order to obtain SIREN and SIRET numbers.

However, to open a bank account, registration with the RCS may be necessary in order to benefit from the K-bis extract often required by banking institutions.

If the liaison office has employees, the declaration formalities and the payment of social security contributions must be carried out with URSSAF office of the Bas Rhin Department.

Legal status	Tax status	Employment status (of the representative)
<p>No legal personality</p> <p>No share capital</p> <p>Same company name as the foreign company</p> <p>Commercial transactions not permitted</p>	<p>Not subject to corporate tax</p> <p>Not subject to VAT (<i>but the parent company may request that the VAT paid on expenses be refunded</i>)</p> <p>Subject to housing tax</p> <p>Subject to social security contributions</p> <p>No separate account keeping</p>	<p>Employee or agent</p> <p>In cases where establishing the entity involves the signature of a short or medium-term employment contract (< three months): registration with the URSSAF office of the Bas Rhin département only</p>



Setup formalities

Company registration

WHEN?

- **Mandatory within 15 days of the liaison office opening**

HOW?

- **With the Business Formalities Center (*Centre des Formalités pour les Entreprises or CFE*)**
- **Online process**
www.guichet-entreprises.fr

COST?

- **Around €200**
(depending on the region)

2. Branch: the intermediate option

Setting up a liaison office is not a suitable option for a company wishing to set up in France to geographically expand their commercial operations.

The creation of a branch is therefore an intermediate solution for setting up operations in France that enables a foreign company to create a permanent establishment in France, that is separate from the foreign registered office, headed by an individual with the authority to enter into binding agreements with third parties on the company's behalf and through which it will carry out genuine commercial transactions.

The branch has no independent legal personality, i.e., distinct from that of the foreign company. However, unlike the liaison office, for tax purposes, it constitutes a permanent establishment of the foreign company in France and is therefore subject to income tax in France.

As this form of establishment involves the exercise of a commercial activity in France, registration on the company register (Registre du commerce et des sociétés - RCS) is mandatory.

A branch thus has a certain degree of autonomy in running its business and may enter into agreements with its partners in its own name, but on behalf of the foreign company.

Legal status	Tax status	Employment status (of the representative)
<p>No independent legal personality</p> <p>No independent share capital or assets</p> <p>The company is liable for its debts</p> <p>May enter into agreements in its own name, but on behalf of the foreign company</p>	<p>Subject to corporate tax</p> <p>Not subject to VAT (only the foreign company is subject to VAT)</p> <p>Subject to housing tax</p> <p>Subject to social security contributions</p>	<p>Employee or agent</p> <p>Relatively independent in terms of decision-making (but remains under the foreign company's control)</p> <p>No personal liability for debt</p>



Setup formalities

Registration on the Company Register (RCS)

WHEN?

- **Mandatory within 15 days of operations commencing**

HOW?

- **With the Commercial Court Registry and the Business Formalities Center (CFE)**
- **List of documents:**
 - > Copy of the foreign parent company's registration certificate
 - > Certified true copy of the parent company's articles of association (in French)
 - > Copy of the document nominating the branch's representative
 - > Two official forms
 - > Proof of domiciliation in France
 - > Identity of the representative

COST?

- **Around €200 (*depending on the region*)**
- **It is highly recommended that the company use the services of a legal firm (translation of the articles of association, employment contracts, etc.**

3. Subsidiary: the most durable form of establishment

This is the most durable and sophisticated legal form for a foreign company wishing to develop its business in another country. It comes with certain constraints but also numerous advantages:

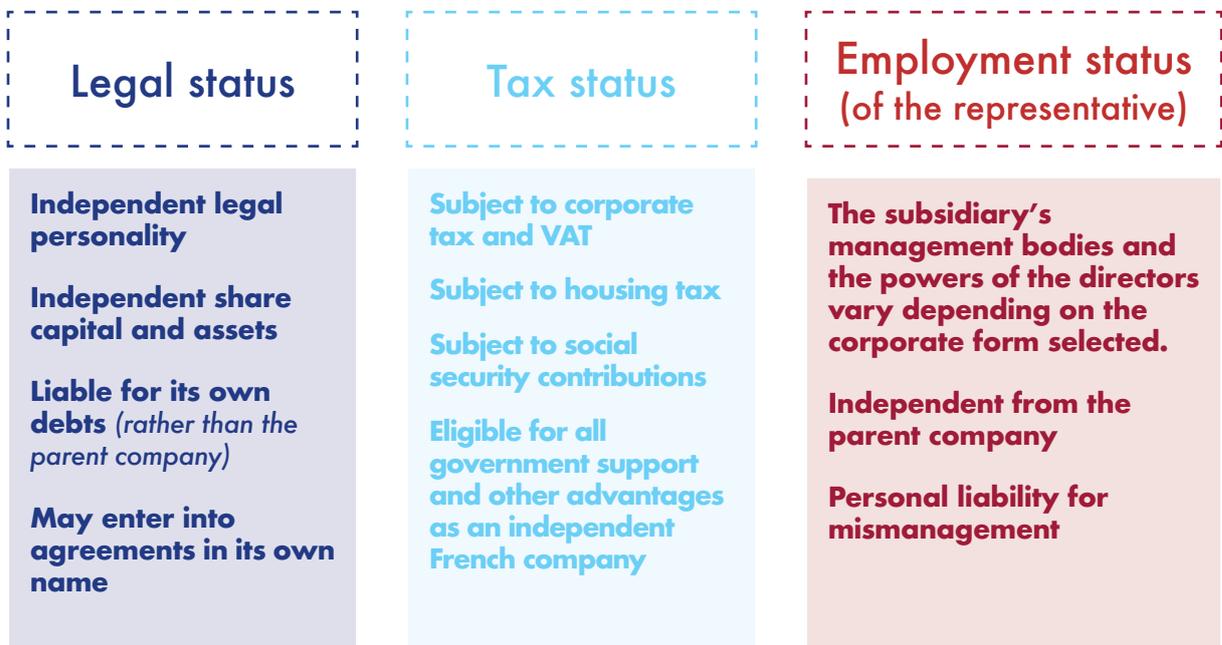
- > The separation of the assets of the parent company from those of the subsidiary, given that subsidiaries are separate legal entities in France.
- > Companies established in France can apply for government support when they are founded or when they seek to develop their operations in France.

French law provides for a **wide array of legal forms**, thus catering closely for the needs and expectations of foreign investors.

The **joint stock company** is the most popular legal form because of the advantages it offers, although other forms of company are available.

The public limited company (*société anonyme* or SA), simplified limited company (*société par actions simplifiée* or SAS) and limited liability company (*société à responsabilité limitée* or SARL) share **many common aspects**.

However, these corporate forms differ in terms of the **rules regarding their establishment and governance**. The SAS offers the greatest contractual freedom³.



You will find more information in the fact sheet on corporate forms

3 : See the fact sheet on corporate forms





UNDER WHAT
LEGAL FORM
SHOULD I SET UP MY
ESTABLISHMENT?

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A French subsidiary can take various corporate forms, the main characteristics of which are as follows:

	Limited liability company (SARL)	Simplified limited company (SAS)	Public limited company (SA)
Organizational flexibility	Moderate	Very high	Very low
Partners and their responsibilities	Private individuals or legal entities Between 1 and 100 The liability of partners is limited to their contributions	Private individuals or legal entities The liability of partners is limited to their contributions	At least two partners, be they private individuals or legal entities
Corporate purpose	Commercial		
Share capital	Freely set by the articles of association, the minimum being €1		Minimum of €37,000
Company governance	The company's governance is organized in accordance with the French Commercial Code. The director must be a private individual who may or may not be a partner in the business.	The company's governance is freely organized according to the firm's articles of association. In particular, the articles of association can freely set the rules according to which the members of the board of directors are appointed and dismissed, as well as the number of directors and their powers. SASs can be run by a private individual or a legal entity, who may or may not be a partner. The only position on the director's board that is mandatory by law is that of Chairman. Only one Chairman can be appointed. However, a company can appoint one or more CEOs or chief operating officers who hold the same powers as the president.	The company's governance is organized in accordance with the French Commercial Code. The company's director must be a private individual.

	Limited liability company (SARL)	Simplified limited company (SAS)	Public limited company (SA)
Organizational flexibility	Moderate	Very high	Very low
Status of the director	<p>From a social security perspective, the director of an SARL is considered to be an employee only if they are not a majority partner and they receive a salary.</p> <p>If they are a majority partner, in social security terms they are considered to be a self-employed individual.</p>	<p>From a social security perspective, the director is considered to be an employee.</p> <p>If they do not hold an employment contract alongside their role as a director, the President is not eligible for unemployment coverage, which is available solely to employees.</p>	
Status of the director – Unemployment coverage	<p>Given the lack of a superior-subordinate relationship, a non-salaried director of a company is not usually eligible for unemployment coverage.</p> <p>In some circumstances, they may simultaneously serve as a director and hold an employment contract, with the latter entitling them to unemployment coverage.</p>		
Statutory auditors	<p>Mandatory if:</p> <p>1- Individually, the company exceeds two of the following three thresholds at the end of an accounting year:</p> <ul style="list-style-type: none"> > Balance sheet total of €4,000,000 or more; > Turnover of €8,000,000 or more; > 50 or more employees on average. <p>Term of office: 6 years</p> <p>2- Taken as part of a company group:</p> <p>The company is a controlling company that forms, together with the companies it controls, a group that exceeds two of the following three thresholds at the end of an accounting year:</p> <ul style="list-style-type: none"> > Balance sheet total of €4,000,000 or more; > Turnover of €8,000,000 or more; > 50 or more employees on average. <p>The company is a controlled company that exceeds two of the following three thresholds at the end of an accounting year:</p> <ul style="list-style-type: none"> > Balance sheet total of €2,000,000 or more; > Turnover of €4,000,000 or more; > 25 or more employees on average. <p>Term of office: 6 years or 3 years in case of option for statutory audit of small companies.</p>		

	Limited liability company (SARL)	Simplified limited company (SAS)	Public limited company (SA)
Organizational flexibility	Moderate	Very high	Very low
Registration duty	The sale of partner's shares in an SARL is subject to registration duty equal to 3% of the sale price (after an allowance of €23,000, depending on the number of shares sold with respect to the total number of shares issued by the company).	The sale of shares in an SAS or SA is subject to registration duty of 0.1% of the sale price.	
	Generally speaking, registration duty is paid by the buyer.	Generally speaking, registration duty is paid by the buyer.	
	Officially however, the seller and buyer are jointly liable for registration duty.	Officially however, the seller and buyer are jointly liable for registration duty.	



WHAT ARE THE KEY STAGES INVOLVED IN ESTABLISHING MY COMPANY?

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The stages involved in establishing a company

Setting up a company requires a certain number of steps to be taken before it can be registered:

Initial steps

- > Seek and obtain government funding and/or support, if applicable (see Booklet 2 "Available supports and grants").
- > Define the partners and their share of the company's capital.
- > Choose the directors and define their respective powers (limited or not).
- > Choose a corporate form.
- > Choose a company name and check its availability.
- > Define the corporate purpose.
- > Find premises (commercial lease, domiciliation agreement, acquisition of real estate), (see Fact sheet 5 of this booklet "business premises and commercial leases").

When setting up the company

- > Open a bank account in the name of the company being formed, into which the funds making up the firm's share capital will be deposited.
- > Have the partners agree upon the essential clauses of the articles of association or sign a partnership agreement.
- > Draft and sign the articles of association.



Confirming the availability of the corporate name is essential to ensure that the chosen name is not protected by trademark law or already used by a competitor. The objective is to avoid any risk of confusion or lawsuits and to secure/protect the corporate name.



ESTABLISHMENT: HELPFUL TIP

- > The articles of association can only be signed once the company's share capital has been paid into a frozen bank account, which enables the company to be registered and a deposit certificate to be issued by the bank.

It is therefore strongly recommended that the bank account be opened well in advance.

Experience shows that finding a bank in which to deposit the share capital, opening an account and paying in the funds are the most time-consuming parts of the process of establishing a company in France.

Advice: ask the parent company's bank if it already has a subsidiary in France or a partner bank.

- > As regards the registered office, it is mandatory to provide the French Company Register (RCS) with documents proving that the company has use of the premises in which the registered office is located. A common solution is the use of a domiciliation company

Advice: It is common for foreign groups setting up operations in France to start with domiciliation, before evolving towards property rental or acquisition once they are successfully established.

Setup formalities

STEP 1

Signature of all the documents required to register the company

STEP 2

All the required documentation is sent to the Business Formalities Center (CFE) or at the Company Register

STEP 3

The Company Register (RCS) issues the firm with a company registration certificate ("extrait Kbis")

The CFE centralizes the various formalities and provides the necessary information to the relevant authorities



The company registration certificate is the company's identification document.

It is the only official legal document certifying the legal existence of a commercial enterprise.

It provides information about the company's business activities and specifies the company's name, registered office, legal form, share capital, establishment duration and date, and the identity of the company directors.

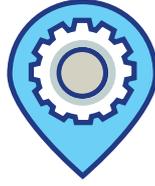
- > The Business Formalities Center informs the relevant French authorities that the company has been established: the tax authorities (which, among other roles, provides the company with a VAT number), social security, the URSSAF collection agency for social security contributions and the INSEE national institute for statistics and economic studies.
- > This process can now be completed online. To cater for the requirements of companies in terms of electronic document signature, certification and archiving, www.infogreffe.com – an economic interest grouping of French Commercial Court Registries – offers services to secure electronic communication and declarations via the internet.
- > Today, a company can be registered online in just a few clicks by uploading scanned versions of the signed legal documents.

Helpful tip: The various formalities a company is required to undertake during the course of its existence can also be completed online.



For further information: <https://www.infogreffe.fr/formalites-entreprise/immatriculation-entreprise.html>

Post-registration formalities



Insurance, Bank account, retirement fund, etc....

Forwarding of the company registration certificate to the bank to release the funds.

Signing up to a retirement fund is mandatory – even if there are no employees (in which case there are no contributions to pay) – within **three months of registration**

Certain insurance policies are mandatory (*for premises, vehicles and particular business activities*)



First recruitment declaration (in the event of recruitment)

In the event that an employee is recruited: **a pre-recruitment declaration (Déclaration préalable à l'embauche or DPAE)** must be sent to the URSSAF (*to register the employee with social security, the National Employment Office, etc.*)





WHAT CRITERIA
WILL THE
DIRECTOR OF
THE ENTITY NEED
TO MEET?

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The director is a key stakeholder in the company's organization. Each day, this individual makes the decisions required for the company to operate. They represent the company in dealings with third parties and may enter into agreements on its behalf.

CRITERIA COMMON TO ALL DIRECTORS

To run a commercial business or head a commercial enterprise, a director must **have legal capacity**, i.e. they must be an adult (aged over 18) or an emancipated minor, and not be the subject of a conflict of interest or a ban (as a result of a court ruling).

Indeed, a conflict of interest may arise when an individual runs two businesses whose activities may hinder each other.

Running a commercial business is considered to be incompatible with the following positions: government employee, public or ministerial officer (solicitor/bailiff), lawyer, statutory auditor, chartered accountant and architect.

In addition to the legal capacity to engage in commercial activities, certain lines of business⁴ require the submission of a specific declaration or authorization request.

The Commercial Court Registry checks that the necessary conditions are fulfilled before registering the company on the French Company Register (RCS).

FOREIGN COMPANY DIRECTORS: HOW CAN YOU RUN YOUR BUSINESS IN FRANCE?

Foreign company directors who are European nationals can run their business under the same terms as a French citizen. Company directors who are non-European Union nationals have two options:

1) You wish to reside in France

You will need to apply for a long-stay visa in your country of residence, as well as a residence permit. All the information you need to apply for a visa and residence permit is available at the [welcometofrance](https://www.welcometofrance.com) website.

2) You wish to remain in your country of residence

Before 2014, a preliminary declaration had to be submitted to the local Préfecture. This is no longer the case. Today, no specific formalities are required of those who wish to run a company in France without residing in the country. When travelling to France (business trips, board meetings, etc.), you will need to apply for a short-stay visa.

However, bear in mind that running a French company from abroad can prove difficult from an operational perspective, particularly during the launch phase.

⁴ : Consult the list on the AFE website: <https://www.afecreation.fr/pid316/activites-reglementees.html>

DIRECTORSHIPS AND EMPLOYMENT CONTRACTS

Company directors are not tied to the company through an employment contract, but by a directorship. Thus, their remuneration and the terms governing their dismissal are set by the company's articles of association. However, there are circumstances where it is possible to serve as a director while holding an employment contract with the company so as to perform a separate technical role (e.g. CEOs of public limited companies, chairmen of SAs and SASs, and managing directors who are minority shareholders of SARLs).

To hold an employment contract and a directorship simultaneously, the following conditions must be fulfilled:

- > The job position must be unrelated to the directorship: a technical role requiring specific skills that differ from those the individual uses in their role as a director.
- > Remuneration that is separate from that received by virtue of the directorship.
- > A superior-subordinate relationship with the company, i.e. the individual is under the latter's authority and control. Thus, it is difficult for a chairman or a majority partner to hold two such roles simultaneously: a chairman and sole proprietor cannot, in principle, also hold an employment contract and is therefore not eligible for unemployment coverage.
- > The directorship can be revoked, despite there being an employment contract.





5

UNDER WHAT
TERMS CAN I RENT
BUSINESS PREMISES?

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Any form of real estate (buildings, land or other) intended for non-agricultural use can be covered by a professional or commercial lease.

The latter accounts for the vast majority of leases signed by businesses.

1. Commercial lease

<p>When?</p>	<ul style="list-style-type: none"> > When premises are rented to a tenant classed as a commercial enterprise, a manufacturer or a tradesperson, so that they may run their commercial or industrial operations or exercise their trade. > Helpful tip: This system does not apply to liaison offices. > This status can be extended via an agreement.
<p>Duration</p>	<ul style="list-style-type: none"> > 9 years minimum
<p>Is it possible to terminate a commercial lease before it expires (other than for wrongdoing)?</p>	<ul style="list-style-type: none"> > Tenant: <ul style="list-style-type: none"> – At the end of each three-year period of the lease, without a particular reason being required (six months’ notice), hence the commonly used term “3-6-9 lease”. – At any time in the event that the tenant retires or receives a disability allowance (six months’ notice). > Lessor: <ul style="list-style-type: none"> – Only at the end of each three-year period of the lease and for certain specific reasons (construction, rebuilding or adding height to the existing building, reassignment of residential accommodation used for business purposes in a secondary capacity, or execution of the work required or authorized as part of a renovation project, or in the event that the building is to be demolished within the scope of urban redevelopment).
<p>What happens when the initial commercial lease expires?</p>	<ul style="list-style-type: none"> > A commercial lease does not necessarily end when it expires. > If it is not renewed or if a new lease is not signed: it continues tacitly for an indefinite period. > Helpful tip: In such cases the lease is less secure. It can be terminated at any time by either the tenant or the lessor, with at least six months’ notice. Termination takes effect on the last day of a calendar quarter.
<p>Right to renew a lease</p>	<ul style="list-style-type: none"> > Tenants have a genuine right to renew their lease. The latter will be renewed for a minimum of nine years. > A lease’s renewal is subject to strict conditions of form. > The lessor can only obstruct the right to renew the lease if they pay the tenant eviction compensation or provide legitimate justification.
<p>Rent</p>	<ul style="list-style-type: none"> > Initial rent payment: Not regulated and set freely by the parties. > Rent may be indexed: Based on standard indices (usually the service sector rent index (ILAT) or the commercial rent index (ILC)). > Three-year rent review: Upon request from the lessor or the tenant after three years, and then three years after the date upon which the previous rent revision became applicable.

2. The exception to a commercial lease: A dispensatory short-term lease

When?	<ul style="list-style-type: none"> > This type of lease allows for dispensation from the rules governing commercial leases. It must be agreed under the following terms: <ul style="list-style-type: none"> – Lease signed when the tenant moves into the premises. – For a maximum of three years. – In response to the express desire of the parties not to be bound by the rules governing commercial leases.
Duration	<ul style="list-style-type: none"> > Three years in total (initial lease and successive leases signed by the same parties). > No minimum duration
What happens when the initial dispensatory lease expires?	<ul style="list-style-type: none"> > The agreement ends as of right on its expiry date, without further formalities being required. > In the event that the tenant wishes to remain in the premises: <ul style="list-style-type: none"> – The lessor has one month to express their opposition to the tenant staying in the premises. – If they are not opposed to the tenant staying, the latter can sign a new lease that is subject to the rules governing commercial leases, if it meets the necessary conditions.
Rent	> Not regulated and set freely by the parties.

3. Professional lease

When?	> In the event that premises are rented for professional activities that are neither commercial, industrial, agricultural or related to a trade. Such contracts are generally signed by independent professionals
Duration	> Minimum of six years.
Contract form	> Always written
What happens when the initial professional lease expires?	<ul style="list-style-type: none"> > Professional leases are renewed tacitly upon expiry, for a duration identical to their initial duration. > If the lessor or the tenant does not wish to renew the contract upon expiry, they must notify the other party with six months' notice by registered letter with acknowledgement of receipt or via a bailiff's writ.
Is it possible to terminate a professional lease before it expires (other than for wrongdoing)?	<ul style="list-style-type: none"> > Tenant: The lease can be terminated at any time via a termination letter (registered letter with acknowledgement of receipt or bailiff's writ; six months' notice). > Lessor: Only when the contract expires.
Rent	> Not regulated and set freely by the parties.





WHAT ACCOUNTING AND COMPLIANCE OBLIGATIONS MUST I FULFILL?

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Commercial operations, whether they are run by a private individual or a legal entity, must fulfill certain accounting obligations. Indeed, any business that appears on the French Company Register (RCS) and which is subject to the actual-profit taxation system (*régime réel*) must keep standard or simplified accounts, in accordance with French accounting principles.

1. General obligations applicable to all commercial enterprises in France

A. ACCOUNT KEEPING

Commercial businesses are required to keep up-to-date accounts that are honest, and which reflect reality.

These accounts may be kept by the company itself, or entrusted to a chartered accountant registered with the French Order of Accountants.

B. ACCOUNTING OBLIGATIONS⁵

In order to keep up-to-date accounts that are honest, and which reflect reality, the company (or its accountant) must:

- > **Record the firm's accounting transactions (purchases, sales, etc.) in chronological order** in the accounting day book.
- > Establish an **invoicing** system in some cases.
- > Conduct an **inventory** (mandatory at least once a year) to verify the existence and value of the company's assets and liabilities at accounting year end.
- > Publish a **financial statement** at the end of **each financial year** based on the company's account entries and inventory (balance sheet, income statement and annexes).
- > Have a **bank account**.
- > Keep all **accounting records** for at **least 10 years after accounting year end**⁶:
 - *Accounting records must be drafted in euros and in French*
 - *They comprise:*
 - The accounting daybook: Chronological record of accounting transactions.
 - The general ledger: Contains all the company's accounts.
 - Annual financial statements: Balance sheet, income statement, annexes.
 - Supporting documents: Purchase orders, delivery or receiving slips, customer and supplier invoices, etc.

5 : Commercial Code (Title I - BOOK II – Chapter III)

6 : Article L123-22 of the French Commercial Code



What other documents need to be kept and for how long?

In addition to accounting records, which must be kept for 10 years after accounting year end, the company must also keep any documents sent or received during the course of its operations. The period of time during which the authorities can conduct retrospective audits will differ depending on the type of document and the legal obligations relating to it.

> **TAX DOCUMENTS⁷: Six years** from the date of the last transaction listed or the date on which the document was signed

Tax documents include:

- All documents relating to taxes and levies (income and corporate tax, direct local taxes such as property tax, taxes on sales such as VAT, etc.).
- Industrial and commercial profits (*bénéfices industriels et commerciaux* or BIC), non-commercial profits (*bénéfices non commerciaux* or BNC), agricultural profits (*bénéfices agricoles* or BA).
- The corporate property contribution (*cotisations foncières des entreprises* or CFE) and the corporate value-added contribution (*cotisation sur la valeur ajoutée des entreprises* or CVAE).

> **CORPORATE DOCUMENTS: THREE TO FIVE YEARS, DEPENDING ON THE TYPE OF DOCUMENT**

- Articles of association⁸: **Five years** as of the date the company lost its legal-entity status.
- Instruments relating to the company's workings (merger agreement, etc.): **Five years**.
- Register of Annual General Meeting and Board Meeting minutes, as well as registered shares and transactions: **Five years** from the date they cease to be used.
- Attendance sheets and powers, report of the director or the board of directors, report of the statutory auditor: for the last **three financial years**.

> **CIVIL AND COMMERCIAL DOCUMENTS: TWO TO 30 YEARS, DEPENDING ON THE TYPE OF DOCUMENT**

- Contracts and correspondence drafted within the scope of commercial relationships: **Five years**.
- Banking documents, goods transport: **Five years**.
- Customs declarations: **Three years**.
- Documents relating to intellectual property: **Five years** from the date protection ceases.
- Insurance policies: **Two years** from the date the policy is cancelled..

7 : Article L102 B of the Tax Procedures Code

8 : Article 2224 of the French Civil Code

> **DOCUMENTS RELATING TO PERSONNEL MANAGEMENT⁹: ONE TO FIVE YEARS, DEPENDING ON THE TYPE OF DOCUMENT**

- Wage slips, contracts, bonuses, compensation, occupational accident declarations, observations issued, and notices served by the labor inspectorate, etc.: **Five years.**
- Documents relating to social security contributions and taxes on wages: **Three years.**
- Records of employee working hours: **One year.**

In addition, companies (legal entities) must **each year submit their annual financial statement to the Commercial Court Registry.**

2. Simplified obligations for small businesses

In some circumstances, certain categories of small businesses can keep simplified accounts, i.e. record their accounts payable and receivable only at financial year end. They can present a simplified balance sheet and income statement, with a standard annex.

Definition of a small business

A small business can take advantage of the simplified system, on condition that it fulfills two of the following three criteria:

- > Balance sheet total less than €6 million.
- > Turnover of less than €12 million.
- > 50 permanent employees on average.

Definition of a micro-enterprise

A micro-enterprise is not required to publish an annex (it only needs to present a simplified balance sheet and income statement), on condition that it fulfills two of the following three criteria:

- > Balance sheet total of less than €350,000.
- > Turnover of less than €700,000.
- > 10 permanent employees on average.

Definition of a medium-sized company

A medium-sized company is defined as any merchant, whether a natural or legal person, not exceeding 2 of the following 3 thresholds:

- > €20,000,000 balance sheet total.
- > €40,000,000 in net sales.
- > 250 permanent employees on average

These companies may choose a simplified presentation of their income statement and request confidentiality of the balance sheet presentation when filing their accounts with the registry. The auditors' report is then not made public. Groups and certain companies (e.g., insurance companies) may not benefit from this restricted disclosure.

⁹ : <https://www.service-public.fr/professionnels-entreprises/vosdroits/F10029>

Exceptions

Certain categories of company cannot take advantage of these simplification measures, e.g.: banks, insurers and mutual insurers, public listed companies, etc.

A company is required to present consolidated accounts if it meets two of the following three criteria

- > Balance sheet total greater than €24 million.
- > Turnover greater than €48 million.
- > More than 250 permanent employees.

Furthermore, companies with more than 300 employees or the turnover of which exceeds €18 million must prepare a financial and forecast statement.

3. Obligations specific to large companies

Definition of a large company

- > These are businesses that employ more than 300 people and generate turnover of €18 million or more.

What are their specific obligations?

In addition to the obligations specified in part 1, these companies must present:

- > Convertible assets and cash in hand, as well as current liabilities.
- > A forecast income statement.
- > A cash flow statement and an annual balance sheet.
- > A financing plan.

Groups of companies must also present:

- > Consolidated financial statements (statements for all the group's companies: balance sheet, consolidated income statement and annex).
- > Group annual report.

4. Compliance obligations

A. LEGAL OBLIGATIONS

- > Produce a declaration of extra-financial performance.
- > Fulfill the general duty of vigilance that is incumbent upon companies.
- > Operate under the civil liability system and the principle of loyalty, to which the company director must adhere.
- > Comply with the requirements of the report on internal control procedures (Financial Security Act of August 2003).
- > Implement measures to prevent and detect corruption in companies that meet the following criteria:
 - at least 500 employees
 - and turnover greater than €100 million
- > The above also applies to companies belonging to a group and must meet the following criteria:
 - the parent company has its registered office in France
 - and has a workforce of at least 500 employees
 - as well as turnover equal to or greater than €250 million.

B. PRINCIPLES OF GOOD GOVERNANCE

Corporate governance rules are not contained in French legislation or regulations, but in the codes of conduct drafted by the bodies representing companies (MEDEF, AFEP).

Currently, public listed companies alone are able to refer to a code of governance. However, those that choose not to comply with the latter are **obliged to explain and justify this decision** or provide reasons for not adhering to some of the provisions of the code if they comply with it only partially.

This obligation is essentially French law's version of the Anglo-Saxon "comply or explain" principle.

- > The AFEP/MEDEF Code
- > The Middenext code



FRANCE, ENGAGED IN FAVOUR OF BUSINESS INTEGRITY

Over the past ten years, France has built up an array of tools to fight breaches of probity, and is thus today able to meet the most demanding international standards in this respect.

Since the Sapin 2 Act of 9 December 2016, large companies⁽¹⁰⁾ have been required to implement a mechanism for preventing and detecting corruption and influence-peddling consisting of 8 measures:

1. A mapping of corruption and influence-peddling risks
2. An anti-corruption code of conduct
3. Anti-corruption training for employees exposed to risks
4. A system for assessing the integrity of their third-party partners
5. An internal whistle-blowing system
6. Anti-corruption accounting checks
7. Anti-corruption internal control measures
8. A sanctions framework for addressing breaches of the code of conduct

Companies below the thresholds set out in the law are not under legal requirement to deploy a corruption prevention mechanism. However, it is in their best interest to implement anti-corruption measures, in particular to satisfy their key accounts and suppliers, which assess their integrity based on Measure 4.

The French Anti-Corruption Agency was put in charge of helping all companies implement these mechanisms and has published recommendations to this end on its website, as well as multiple practical guides, for example on how to respond to gifts and invitations. It responds to all questions sent by companies to the address: afa@afa.gouv.fr.

In 2020, 95% of large companies and 50% of small companies in France reported having deployed anti-corruption measures.

(10) Companies or groups of companies with a workforce of more than 500 employees and annual turnover in excess of €100 million





WHAT ARE THE DIFFERENT WAYS OF ACQUIRING A COMPANY?

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ACQUIRING A COMPANY IN ITS ENTIRETY

Taking over a company is a complex endeavor, but it can be a viable alternative to setting up a subsidiary.

It involves the acquisition of all or a majority of the shares of the company targeted.

Acquiring a company involves the acquisition of the firm's assets and liabilities, which is why such a transaction must be accompanied by suitable guarantees (see "Asset and liability guarantee" below).



Depending on the company's legal form, the buyer acquires either partner's shares or stock.

The registration duty applicable to the sale of these securities varies according to this criterion:

- > Registration duty on partner's shares: **3% after an allowance of €23,000**
- > Registration duty on stock: **0.1 %**
 - It can be advantageous to modify the company's legal form prior to acquisition, so as to reduce the registration duty payable. However, this must not be the only reason (or the main reason: for changes carried out since 1st January) behind the change (tax risk).

The process can also take longer than establishing a new company. It comprises several stages geared towards securing the transaction:

Defining the company profile

- Sector of activity
- Location
- Company size
- Company type: startup, family company, company undergoing redeployment, etc.

Analysis of the target company

- Launch of an **audit (due diligence)**
 - Financial audit
 - Legal audit (social, tax, corporate law, intellectual property)
 - Environmental audit

Limits the risks relating to the acquisition, while allowing the points already negotiated to be verified and the risks to be costed so as to be able to negotiate the price if possible

Negotiation

- The company is valued based on the due diligence report
- A schedule is drawn up until the actual day of the acquisition or **closing**

Formalization of the agreement

- **Letter of intent (LOI):** This is the document in which the buyer states their intention to start or continue negotiating with the seller. It formalizes this intention and allows a relationship based on trust to be established between the seller and the buyer. It can also be issued prior to due diligence being conducted. Its contents can vary a great deal (price or price range, execution timetable, fate of the directors currently in place).
 - It may be a **binding offer**
 - Or a **non-binding offer**
- **Promise to buy:** The buyer commits to buying the company and the seller acknowledges this commitment, while reserving its decision to complete the acquisition. The promise can also be reciprocal, in which case the seller and the buyer mutually agree to sell and buy the company.
- **Memorandum of understanding:** Sets in stone the acquisition of the company. The negotiations are complete, the price has been set, the terms and conditions have been finalized and all that remains is to sign this essential document, which binds the two parties. Its signature takes place before the effective transfer of ownership: closing. The memorandum of understanding usually contains conditions precedent.



Closing

- **Signature of the transfer agreement:** This is the document that formalizes the various elements of the acquisition and cements the agreement between the parties regarding these different points. The transfer of ownership takes place on this date (it is concluded once all conditions precedent have been lifted).
- **Asset and liability guarantee:** This is geared towards safeguarding and guaranteeing the buyer against any liabilities of which it was unaware on the day of the acquisition, and for which the seller remains liable.
 - **The seller** makes a certain number of declarations that it guarantees. The seller may also guarantee the buyer against any increase in liabilities or decrease in assets. If a declaration proves to be false or if reductions in assets or increases in liabilities are revealed, that have their origins prior to the sale, the seller must pay the resulting loss for the buyer.
 - **The buyer** is therefore offered a degree of security regarding the state of the company it is acquiring.



DO YOU HAVE AN ACQUISITION PROJECT IN FRANCE?

Business France helps you find investment opportunities to pursue an acquisition in France. Our network of regional partners and highly skilled private partners can create comprehensive solutions to guide you to a successful outcome!

Your local Business France investment advisor and a dedicated team based in France can provide you with **customized and confidential support throughout the acquisition process** – from business setup strategy and investment criteria to closing and implementing your project.

JOINT VENTURES: AN ALTERNATIVE TO SETTING UP A SUBSIDIARY

Setting up a joint venture with a local partner is an **alternative** to establishing a wholly-owned subsidiary (new company or acquisition).

This requires the foreign investor to join forces with a local company to benefit from the latter’s knowledge of the local market, competition, legislation and administrative provisions.

Joint ventures have **no legal definition in French law**. The parties agree solely to **pursue a specific objective**, often for **a limited period of time**, by pooling **human and financial resources** in the aim of minimizing the risks involved in the project.

A joint venture can take different forms:

Incorporated joint venture

WHAT IS IT?

- A **new legal entity**
- In which the two parties (foreign company and local company) invest

HOW?

- **Shareholders’ agreement:** sets out the workings of the joint company
 - Governance, skills sharing, decision making processes, etc.
- > **Unincorporated joint venture**

Joint Venture non incorporée

WHAT IS IT?

- A purely **contractual** relationship
- Where no new legal entity is formed

HOW?

- **Collaboration agreement** between the two parties (foreign company and local company)
 - > Cooperation or R&D agreement, brand licensing, etc.

ACQUISITION OF GOODWILL

It is also possible to set up operations in France by acquiring a company's goodwill.

What is goodwill?

Goodwill is a set of assets that collectively make up an economic unit set up for commercial purposes. These comprise:

- > Tangible assets, such as equipment, goods and facilities.
- > Intangible assets, such as clientele, lease rights and trade name.



For example, the goodwill of a bakery comprises:

- > Tangible property: The bakery's furnishings and all the equipment needed to make its products
- > Intangible property: Lease rights, clientele

Goodwill is "intangible property". It is part of the company's assets.

It differs from the acquisition of a company in that only the assets are transferred to the buyer.

The sale of a business is regulated in France. Thus, a procedure for informing creditors must be respected, as they have a right to object to the payment of the price, in particular. However, since 21 July 2019, the deed of sale of the business must no longer include the information exhaustively listed in the French Commercial Code. However, in order to prevent any disputes, it is advisable to include them in the deed.



Finally, the transfer of goodwill is also subject to registration duty, whose rate varies according to the price. The rate is 5% for prices higher than €200,000 and is, in principle, paid by the buyer.

ACQUISITION BEFORE A COURT

It is also possible to take over a company that is the subject of collective insolvency proceedings.

What are collective insolvency proceedings?

French law provides for three types of collective insolvency proceedings:

- > **Safeguarding procedures**, which can be initiated on behalf of a debtor that has encountered difficulties that it cannot overcome alone.
- > **Administration proceedings**, when a debtor is in cessation of payments, i.e. they can no longer pay their debts with the assets available to them.
- > **Liquidation proceedings**, when the debtor is in cessation of payments and there is no prospect of recovery for the company.

Terms governing the takeover

- > An offer to acquire all or part of the business can be submitted from the moment administration or liquidation proceedings begin. In the event that a safeguarding procedure has been launched, only one or more lines of business can be sold.
- > The timeframe during which offers may be submitted, together with information on the business activity for sale, must be published by the trustee or the court-appointed administrator.

Contents and details of the offer

- > The contents of the offer are strictly regulated by the French Commercial Code. The offer must be made in writing and include certain mandatory information.
- > The workforce aspects of the offer are particularly important. The buyer may only choose the job positions and the number of employees it wishes to keep and may under no circumstances select which employees will remain.

Role of the Court

- > The Court assesses the offers based on three criteria set out in the French Commercial Code:
 - The future sustainability of the operation.
 - Job preservation (the dominant factor in practice).
 - Settlement of debts.



Helpful tip: The assets acquired may be declared inalienable by the Court ruling on the transfer. Thus, the buyer may be prevented from selling off any assets for a certain period of time.





WHICH MARKETING
CHANNEL IS BEST
SUITED TO MY
BUSINESS ACTIVITIES?

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Several marketing channels may be considered by a company setting up in France.

The standard channels are:

- > **Direct selling** (including via an agent).
- > **Selling through distributors.**
- > **Online sales** (directly or indirectly)

	DIRECT SELLING (VIA AN AGENT)			SELLING THROUGH A DISTRIBUTOR	
	Direct selling	Sales agent	Commission agent	Selective distribution	Exclusive distribution
Channel	No intermediary	<ul style="list-style-type: none"> > An agent permanently charged with negotiating and setting up contracts of sale or service agreements in the company's name and on its behalf. 	<ul style="list-style-type: none"> > A sales intermediary who acts in their own name but on behalf of an initial seller, within the confines of the remit they have been handed, so as to conduct the transactions entrusted to them. 	<ul style="list-style-type: none"> > A distribution channel via which the supplier agrees to sell goods or services only to selected distributors, based on certain criteria. 	<ul style="list-style-type: none"> > A distribution channel via which the supplier agrees to sell goods or services to only one distributor in the territory in question.
Conditions of form	See Fact sheet 9: Commercial documents	<ul style="list-style-type: none"> > No conditions of form. > Registration on the Special Register. > Obligation to provide a written contract if requested by the other party 	<ul style="list-style-type: none"> > No conditions of form. 	<ul style="list-style-type: none"> > Written contract (containing a definition of the selection criteria). > This type of distribution is more relevant to the luxury sector. 	<ul style="list-style-type: none"> > Written contract (containing a definition of the exclusive territory). > In some cases (exclusivity clause), pre-contractual information must be formally provided by the supplier to the potential distributor (20 days before the contract's signature).
System		<ul style="list-style-type: none"> > Payment of the sales agent in the form of commission (as per the regulations if there is no agreement between the parties). > Territorial exclusivity possible which implies the agent's remuneration for any sales in the territory granted even if they have not taken place as a result of the involvement of the sales agent. 	<ul style="list-style-type: none"> > Payment of the commission agent in the form of commission (as per the regulations if there is no agreement between the parties). > Price and terms & conditions of sale set by the principal. > No direct actions between the end customer and the initial seller. > The commission agent has exclusive rights over the goods in their possession. 	<ul style="list-style-type: none"> > The selection criteria must be applied indiscriminately. > The distributor alone determines the price at which the product or service acquired is to be sold. 	<ul style="list-style-type: none"> > The distributor alone determines the price at which the product or service acquired is to be sold. > Standard clause: a clause specifying supply exclusivity (in which case the contract duration must be limited).

	DIRECT SELLING (VIA AN AGENT)			SELLING THROUGH A DISTRIBUTOR	
	Direct selling	Sales agent	Commission agent	Selective distribution	Exclusive distribution
Expiry / consequences (end of relationship)		<ul style="list-style-type: none"> > Compensation for any prejudice suffered (usually two years' worth of commission). The sales agent cannot claim compensation in the event of gross misconduct. 	<ul style="list-style-type: none"> > No compensation, except in the event of breach of contract. 	<ul style="list-style-type: none"> > No compensation, except in the event of breach of contract. 	<ul style="list-style-type: none"> > No compensation, except in the event of breach of contract.

Other distribution methods exist, such as commission, affiliation commission, franchise, etc.

	ONLINE SALES	
	Market place	Direct online sale
Channel	An intermediary markets product on its platform, such as Amazon, Mano Mano, Cdiscount, etc.	Distribution method by which the Supplier sells its products and services directly online, either to professionals, or to consumers, or both.
Conditions of form	<ul style="list-style-type: none"> > The sale can be made directly by the product supplier and the platform takes a commission and provides various services (collection in the name and on behalf of the supplier, promotional operations, etc.). > The platform can buy to resell 	<ul style="list-style-type: none"> > If the customers are professionals, the procedure for making the customer's general terms and conditions of sale enforceable is important. > If the customers are consumers, it is important to comply with the mandatory provisions of the Consumer Code: cooling-off period, information on the guarantee conditions, identity of the mediator, etc.





WHAT COMMERCIAL DOCUMENTS DO I NEED TO LAUNCH MY BUSINESS?

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When a company enters into commercial relationships with other firms, French law requires it to use certain commercial documents.

Certain mandatory information must appear in all commercial documents.

1. General Terms and Conditions of Sale (GTCS) or General Terms and Conditions of Service Provision (GTCSP)

The General Terms and Conditions of Sale or General Terms and Conditions of Service Provision are essential components of a business relationship.

They allow each party to understand their rights and obligations.



Helpful tip: Generally speaking, the GTCS and GTCSP are instruments that protect companies (notably by specifying: the penalties applicable in the event of delayed payments, a title retention clause, limitations of liability, etc.)

In what cases are GTCS/GTCSP mandatory?

	OPTIONAL / MANDATORY	PENALTIES
In a business relationship with a company (B2B)	<p>GTCS/GTCSP are optional in relationships between businesses but must be provided if requested by a business buyer request them.</p> <p>They include payment terms, as well as price determination elements such as the unit price schedule and any price reductions.</p>	<p>> Administrative fine (maximum of €75,000 for a legal entity)</p>
In a business relationship with a consumer (B2C)	<p>GTCS/GTCSP, or at least the content of these documents, are mandatory in relationships with consumers. These are the documents containing the pre-contractual information, which the business a company is legally required to provide to consumers.</p>	<p>> Contractual liability if the required pre-contractual information is not communicated.</p> <p>> Contract nullity: Penalties relating to sales outside the establishment or distance selling.</p> <p>> Administrative fines</p> <p>> Criminal penalties: Penalties relating to distance selling or the withdrawal form's noncompliance.</p>
in a business relationship with a business customer who purchases the products for resale as is	<p>A single document showing the annual business plan must be formalized no later than the first March of each year (maximum once every three years).</p>	<p>> Administrative fine (maximum of €375,000 for a legal entity);</p>

Are GTCS/GTCSP required to take a specific form?

	MANDATORY CLAUSES
In relationships with companies	<p>The GTCS/GTCSP must include:</p> <ul style="list-style-type: none">> The actual terms and conditions of sale.> A unit price schedule.> Price discounts.> Payment terms.
In relationships with consumers	<p>Prior to the signature of a contract, the company must provide the consumer with the following information:</p> <ul style="list-style-type: none">> The terms and conditions of the sale of products or services, including price discounts> Commercial co-operation services that promote the marketing of the supplier's products or services.> Other obligations intended to promote the commercial relationship between the supplier and the distributor.> Additional information may be required based on the nature of the products concerned (e.g.: food products, consumer goods, etc.).

2. Invoices

An invoice is a document detailing the services or goods sold and their price. Invoices must be drafted in French and in duplicate (one copy for each party), on paper or electronically, and issued when the contract is fulfilled.

The company must keep its copy of the invoice for 10 years.

When is it mandatory?

	MANDATORY	PENALTIES
In relationships with companies	<ul style="list-style-type: none"> > Whenever services are provided, or goods are sold. 	<ul style="list-style-type: none"> > Fine of €375,000 for legal entities (or 50% of the amount invoiced or that should have been invoiced).
In relationships with consumers	<ul style="list-style-type: none"> > In cases of distance selling. > In cases where used goods, works of art, collector's items or antiques are delivered to public auctions. > Whenever services are provided to a private individual (if the price is €25 inc. VAT or more). > For services involving work on property that is provided to private individuals, with or without a sale. > Upon request from a consumer. 	<ul style="list-style-type: none"> > Fine of €15,000 for legal entities.

When is it issued?

	ISSUANCE
	<ul style="list-style-type: none"> > When the sale has been completed or the service has been provided. > A slight delay in invoicing may be permitted to allow companies the time to complete necessary administrative processes. > Periodic invoicing can be carried out when several separate orders for goods or services are fulfilled for the same customer, and when the tax applicable to these transactions is payable within the same calendar month.

What information is mandatory?

	SPECIFIC MANDATORY INFORMATION	KEY INFORMATION REQUIRED IN ALL CASES
On invoices to companies	<ul style="list-style-type: none"> > Payment date or lead time. > Order number > Penalties for late payment. > Fixed compensation of €40 to cover debt collection expenses, payable to the creditor in the event of late payment. 	<ul style="list-style-type: none"> > Invoicing date. > Invoice number. > Identity of the buyer. > Identity of the seller or the service provider. > Individual VAT identification number of the seller and the customer, if the latter is a company (except in the case of invoices for amounts equal to or under €150 ex. VAT). > On the date the sale is completed or the service is provided. > Quantity and detailed description of the products or services. > Unit price excluding VAT of the products sold and the services provided, and any discount granted on the day the goods are sold or the service is delivered when it relates directly to this particular transaction, not including any discounts not specified on the invoice. > Any surcharges. > Discount conditions > Legally applicable VAT rate. > Total amount payable including VAT.
On invoices to consumers		

Penalties:

- > A tax fine of €15 per missing or incorrect piece of information on each invoice (up to 25% of its total amount).
- > A criminal penalty of up to €375,000 for legal entities.

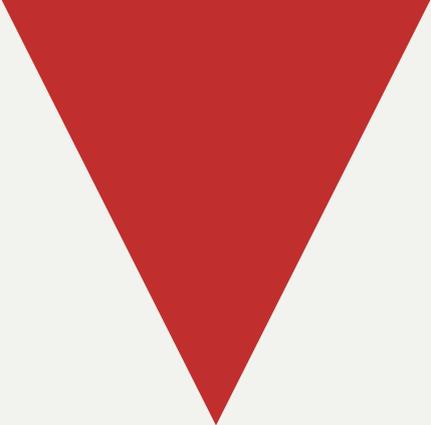
Other mandatory information specific to the type of business activity may exist.

3. Mandatory information on all business documents

Certain pieces of information must appear on all commercial documents issued by companies (notably on purchase orders):

	MANDATORY INFORMATION	PENALTIES
All entities registered on the Company Register (RCS)	<ul style="list-style-type: none"> > The unique identification number (SIREN). > The acronym "RCS" followed by the name of the city that is home to the Commercial Court Registry with which the company has registered. > The location of its registered office. > If applicable, the company's liquidation situation. > Whether the company is run by a lessee manager or a representative manager (gérant-mandataire). > Specific information when a support contract has been signed with another organization that wishes to back the establishment or takeover of a business. > The existence of ring-fenced assets (the line of business to which the assets are assigned, the name under which the business will operate). 	<p>Fine for class 4 offences (maximum of €3,750 for a legal entity).</p>
All commercial businesses	<p>The company name must be preceded or followed immediately and legibly by:</p> <ul style="list-style-type: none"> > In the case of partnerships (société en nom collectif), the words "société en nom collectif" or the acronym "SNC". > In the case of limited partnerships (société en commandite simple), the words "société en commandite simple" or the acronym "SCS". > In the case of limited liability companies (société à responsabilité limitée), the words "société à responsabilité limitée" or the acronym "SARL" and the company's share capital. > For public limited companies (société anonyme), depending on each case: <ul style="list-style-type: none"> – "Société anonyme" or the acronym "SA". In addition, if the public limited company has a board of directors and a supervisory board, the legal form is indicated by the words: "Société anonyme à directoire et conseil de surveillance" (public limited company with a board of directors and supervisory board). – "Société par actions simplifiées" (simplified limited company) or the acronym "SAS". – "Société en commandite par action" (limited partnership) or the acronym "SCA". – "Société européenne" (European company) or the acronym "SE". > The amount of share capital, which can be rounded down to the nearest whole value. > For companies with variable capital, under the terms of article L. 231-2 of the Commercial Code, the wording indicating the company's legal form must be followed by the words "à capital variable" (with variable capital). 	

Other wordings may be required due to the specific business activities in which the company is involved.



10

GDPR: HOW TO BE
COMPLIANT

MAKE A *FRENCH* START
10 insights to grow your business in France

All companies use personal data, whether that of their employees, partners or prospective customers. In order to protect these data and ensure that they are handled transparently, thus guaranteeing the rights of individuals, the GDPR and the European regulations on the protection of personal data require that any personal data used, whether in digital or paper form, be processed in a specific manner.

This processing obligation is sanctioned by a fine of up to €20 million or 4% of the company's annual worldwide turnover (whichever is the higher).

1. Key Concepts:

PERSONAL DATA	DATA PROCESSING	DATA CONTROLLER	PROCESSOR	DPO / DPD	PURPOSES OF THE PROCESSING
Any information relating to a natural person who either has been or can be identified, directly or indirectly - surname, first name, age, date of birth, place of birth	Any operation or set of operations, whether automated or not, relating to data, regardless of the process	Any person or organisation that, whether alone or together with others, determines the purposes and procedures of the processing	Any natural or legal person or any organisation processing personal data on behalf of, on the instructions of and under the authority of a data controller.	Data Protection Officer: Person responsible for the protection of personal data within an organisation: the DPO is responsible for ensuring compliance with the GDPR and advises the organisation. The DPO is the point of contact for the supervisory authority.	The main purpose of the use of personal data, a specific and legitimate purpose of data processing.
Identification data: surname, first name, personal email address, etc. Identifying data: indirectly allows the identification of the person - telephone no., SS registration no., IP address, vehicle licence number, etc. Any information which can be cross-referenced to identify the person (fingerprint, DNA, date of birth associated with the municipality of residence or birth, age, gender, geographical location, etc.)	Examples: collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or making available, alignment or combination, restriction, deletion or destruction.		Relations between the data controller and the processor must be contractualised (amendment, contract, etc.)		Examples: recruitment management, customer management and monitoring, satisfaction survey, marketing, property and personal protection, litigation management, etc.
Sensitive data*: > Racial or ethnic origin; > Political, philosophical or religious opinions; > Trade union membership; > Health or sex life; > Biometric data					
Data categorised as sensitive*: automated processing (profiling), bank data, social security number					

*: collection prohibited except with express consent

2. The main measures to be implemented:

MEASURE	PURPOSE	MEANS
Creation of distribution networks	list all processing and its purposes	
Creation of contract review	check their compliance and, if necessary, include the GDPR clauses	
Appoint a DPO (Data Protection Officer)		The DPO may be internal (function within the company) or external (external service provider - lawyer, chartered accountant, etc.) The DPO must have the technical and legal knowledge required to carry out their mission.
IT and Cybersecurity Management	1. Mapping processing and data with data controllers and business lines	> processing carried out on data (collection, enrichment, purging) > categories of recipients (internal, external, outside the EU) > existing means of protection (organisational and technical, etc.) > types of data concerned (data subject, type of data)
	2. Study and implement solutions to minimise access to personal data	
	3. Regularly test IT system vulnerabilities	
	4. Purge/delete unnecessary data	
Facilitation of training / awareness-raising procedures	Setting up training/ awareness sessions for employees and partners	
Creation of alert procedures	In the event of a personal data breach, obligation to inform and alert the person contacted within 72 hours	In the event of intrusion (illegal and unauthorised access to personal data, such as a cyber attack), accidental and unauthorised disclosure of personal data, sending confidential documents to wrong recipients, unlawful modification of personal data, accidental deletion of personal data, the Data Controller is obliged to inform and alert the person contacted within 72 hours
Secure	relations with employees	establish a contractual security policy; Include a GDPR clause within the employment contract, internal regulations, etc.
	relations with partners and service providers	provide a contractual framework for relations with partners (...) provide a contractual framework for the liability of processors/co-contractors
	its data transfers outside the EU	> Check secure countries / adequacy decision > adopt legal instruments (approved certification, approved code of conduct,
Implement procedures for handling requests from data subjects	To respond to requests for access, rectification and deletion of data	

3. The rights of the data subject, main measures to be implemented:

Information	The right of the natural person to be informed about the data collected and the purpose of the processing carried out
Access	The right for the natural person to access his or her personal data collected by the data controller
Portability	The right for the person to move, not just duplicate, their personal data from one entity to another — principle of portability
Deletion	The right to ensure that any data, that is held by an entity that no longer uses or needs it, is deleted



WHAT ARE THE LEGAL FORMS AVAILABLE FOR CARRYING OUT A NON-PROFIT ACTIVITY IN FRANCE?

MAKE A *FRENCH* START
10 insights to grow your business in France

Companies may choose to set up for purposes other than profit sharing. In this case, they may choose between various possible legal forms: the association, the corporate foundation or the endowment fund.

While all 3 of these formats **have in common their non-profit purpose**, they differ when it comes to the aim set out by their founder(s). For instance, while the members of an association act around a common objective, foundations and endowment funds are dedicated to making private funds available to accomplish a work of general interest.

	ASSOCIATION	FOUNDATION*	ENDOWMENT FUND
Purpose	Common interest objective	General interest objective	General interest objective
Members	Members	Donors	Donors
Legal personality	Yes	Yes	Yes
Forms	Ordinary, accredited or recognised as being of public utility (OMR)	Corporate or scientific cooperation.	–
Registration process	Declaration to the registry of associations	Declaration to the prefecture	Declaration to the prefecture
Profits	May earn marginal profits	None	None

* Other forms of foundation exist but are not elaborated upon in the booklet

1. Creating an association to support non-profit projects

An association enables a number of individuals to pool their knowledge or activity on a permanent basis for purposes other than sharing profits.

An association may be set up by natural or legal persons (at least two partners), namely commercial companies or other associations under French or foreign law. Associations may also create one or more establishments comparable to “local sections” or “branches” without legal personality.

Governed by the Law of 1901, associations remain free to organise themselves as they see fit, their social purpose must be authorised by law.

Associations may apply for approval or recognition as being of public utility¹¹, enabling a privileged relationship to be established between the administration and an association, but also to receive donations and legacies or to benefit from grants.

Legal status	Tax status	Employment status (of the representative)
<p>Legal personality</p> <p>No “share capital», and instead, allocation of resources necessary for its operation</p> <p>Non-profit</p> <p>May generate profits to finance its operations</p>	<p>Disinterested management</p> <p>Not subject to commercial taxes (non-profit activities predominant)</p> <p>Social security charges paid for employees</p> <p>Simplified accounting</p>	<p>Director may receive compensation, without prejudice to the non-profit nature</p> <p>Employees may be hired</p> <p>Volunteers may be called upon to carry out work (no social contributions)</p>

11 : Five conditions must be met for an association to be recognised as being of public interest: mission of general interest; outreach beyond the local level; membership of at least 200; democratic and statutory functioning; substantiated financial soundness (minimum annual resources amounting to €46,000, funding from public subsidies accounting for less than half the budget and positive results over the last 3 years)

ADMINISTRATIVE FORMALITIES FOR CREATING AN ASSOCIATION

The articles of association are the founding act in the creation of an association. They must be drawn up freely, written in French and signed by at least two people.

They contain information describing the object (or purpose) of the association and its operating rules. They may be supplemented by internal regulations.

To gain legal personality, a declaration must be made to the registry of associations. It will be published in the Official Gazette of Associations and Corporate Foundations (JOAFE). The declaration can be filed online.

When the declaration is made to the prefecture, the association automatically receives a registration number in the National Directory of Associations (RNA). It must also request registration in the Sirene directory to seek subsidies from the State or local authorities and to employ staff.

To be recognised as being of public interest, the association must complete specific procedure with the Ministry of the Interior. Approval is granted by the State or public institutions (e.g. Ministry of Youth and Sports for sports associations).

2. Corporate foundations for works of general interest

At the root of a corporate foundation, there are one or more companies which commit to pay sums of money to carry out a work of general interest by a legal entity to be created, not for profit and for a limited period.

The potential founders of a corporate foundation may be:

- > Civil or commercial companies;
- > Public industrial and commercial concerns;
- > Cooperatives;
- > Mutual benefit institutions;

As there is no minimum or maximum number of founders, the foundation can be **set up by a single legal person.**

This entity is created to perform **work of general interest** and **must be non-profit**. The founders are not required to share any surpluses made by the foundation. However, the foundation may engage in lucrative operations if their product is fully allocated to achieving its purpose.

The corporate foundation is created for a **fixed term of at least 5 years**. It may be extended by the founders, or by only some of them, for a minimum period of 3 years.

When the corporate foundation is set up, the founder or founders undertake to pay sums commensurate with a multi-year action programme set out in the articles of association, the amount of which may not be less than €150,000.

The corporate foundation has the legal capacity from the publication in the Official Gazette of Associations, Trade Union Associations of Owners and Corporate Foundations (JOAFE) of the prefectural authorisation that confers this status.

When the foundation **receives more than €153,000 in subsidies**, it is required to publish its annual accounts and the statutory auditor's report in the «Associations» section of the «journal-officiel.gouv.fr» website.

Legal status	Tax status	Employment status (of the representative)
<p>Legal personality and capacity</p> <p>Multi-year action programme with a minimum financial commitment of €150,000</p> <p>Non-profit</p> <p>Engagement in a work of general interest</p>	<p>Not subject to commercial taxes (ban on carrying out profit-making transactions)</p> <p>Fiscal arrangements are favourable for donors:</p> <ul style="list-style-type: none">> The founding company receives a tax reduction of 60% of the amount of the donations made, up to a limit of five per thousand of its turnover,> -Its employees receive a tax reduction at the rate of 66% of the sums paid by them up to a limit of 20% of their taxable income	<p>Managed by a Board of Directors</p> <p>May hire employees</p>

CREATING A CORPORATE FOUNDATION

The creation of the Foundation is subject to a request for authorisation to the Prefecture of the department in which it will have its headquarters.

The application must include the following information:

- > Name of corporate Foundation
- > Headquarters and duration
- > Company names, surnames, registered offices and activities of the founder(s)
Surnames, first names, professions, domicile and nationalities of founders or their representatives who will sit on the Board of Directors

The above must be accompanied by the following supporting documents:

- > Application form for publication in the JOAFE
- > The Foundation's draft articles of association
- > Deed by which the founder(s) undertake to pay the initial endowment
- > Guarantee contract(s)

The prefectural services review the request and, after validation, issue a prefectural decree. The file is then sent to the Ministry of the Interior for publication in the JOAFE.

3. Scientific cooperation foundations

Scientific cooperation foundations are non-profit legal entities operating under private law which contribute to one or more activities of public research or the public service of higher education.

Their remit is set out in the Research Code, including:

- > The development and progress of research in all fields of knowledge.
- > The promotion of research results for the benefit of society.
- > The sharing and dissemination of scientific knowledge.
- > Lifelong initial and continuing education.
- > Participation in the construction of the European Higher Education and Research Area.

The scientific cooperation foundation must be created:

- > Either by multiple public or private institutions or organisations, including at least one public research or higher education institution;
- > Or by a community of universities and public institutions of a scientific, cultural and professional nature.

These founders may be joined by other partners, such as associations or companies.

Most, if not all, of their resources may come from public funds, but their purpose also allows them to resort to fund-raising (private fund-raising) to finance their research activities.

The creation of scientific cooperation foundations takes place within the framework of government policies (calls for tenders from the Ministry of Research, research and higher education clusters, future investment, Campus plan)

Legal status	Tax status	Employment status (of the representative)
<p>Legal personality</p> <p>Non-profit</p> <p>Public research or public service higher education activities</p>	<p>Disinterested management</p> <p>Not subject to commercial taxes when its non-profit activities remain preponderant.</p> <p>This type of foundation entitles donors to tax reductions:</p> <ul style="list-style-type: none"> > for companies: 60% of the amount of the payments within the limit of 5 per thousand of the turnover; > for individuals: 66% of the amount paid up to 20% of taxable income; 	<p>Must be administered by a Board of Directors and managed by a director</p> <p>Supported by a scientific council</p>



FOCUS ON FOUNDATIONS RECOGNISED AS BEING OF PUBLIC UTILITY

A foundation recognised as being of public utility (FRUP) is a sponsorship organisation, i.e. an organisation that can benefit from funding from third parties. The purpose of an FRUP is to make assets available for a cause of general interest. It is created by decree in the Council of State, after the application has been examined by the services of the Ministry of the Interior.

The purpose of a foundation is the irrevocable transfer of resources, property or rights by one or more persons in order to carry out a work of general interest.

A foundation is a non-profit legal entity operating under private law, the founders of which may be companies, public bodies or associations.

The initial endowment must amount to at least €1.5 million. It may be paid in several instalments over a maximum period of 10 years from the date of publication in the JOAFE of the decree granting recognition of public utility.

The founders transfer their resources, property or rights, by donation or by bequest.

The income from the endowment must be used to finance the foundation's social purpose.

The application for recognition can be made by e-mail to the Ministry of the Interior.

There is a list of documents to be submitted in support of an application for the creation of an FRUP.

The Ministry of the Interior reviews the application, then sends it to the Council of State for an advisory opinion.

Recognition of public utility is granted by the Prime Minister by decree published in the Official Gazette

The foundation gains legal personality from the entry into force of this decree.

4. Endowment funds

Inspired by the Anglo-Saxon “endowment fund” model, the endowment fund is a non-profit legal entity operating under private law to perform a work or a mission of general interest or to support another non-profit organisation in performing work or a mission of general interest by granting it funding.

There is no minimum or maximum number of founders and the endowment fund can thus be **set up by a single legal entity**.

The initial allocation to create an endowment fund is set at a minimum of €15,000. It can be a capital endowment and/or donations and legacies granted without consideration and on a permanent basis. Endowments, donations and bequests are eligible for an income or corporate tax reduction equal to **60% of the amount of the donations, not to exceed 5% of the turnover**.



The resources of the endowment fund are the income from endowments, the income from activities authorised by the statutes, and the income from payments for services rendered. The fund may appeal to public generosity and thus solicit donations. The fund may not receive public subsidies.

The endowment fund shall draw up annual accounts which shall include at least a balance sheet and an income statement. These accounts shall be published in the JOAFE no later than 30 June of the following year. The fund appoints at least one auditor when the amount of its resources exceeds €10,000 per year.

Legal status	Tax status	Employment status (of the representative)
<p>Legal personality</p> <p>Initial endowment of at least €15,000</p> <p>Non-profit</p> <p>Development of activities of general interest, either</p> <ul style="list-style-type: none"> > By carrying out its own activities, with a view to achieving a work or mission of general interest (operator fund), > By contributing to an activity of the same nature carried out by another organisation (redistributor fund). 	<p>Not subject to commercial taxes (if the non-profit criterion is met)</p> <p>Favourable tax system: companies can benefit from a reduction equal to 60% of the amount of the donations within the limit of 5% of the turnover.</p>	<p>Administration of the fund by a Board of Directors of at least 3 members (the first ones are appointed by the founder(s))</p> <p>Chairman of the Board of Directors, responsible for representing the fund</p>

CREATION OF THE ENDOWMENT FUND

The creation of the endowment fund is the subject of a declaration to the prefecture of the department in which it will have its registered office.

The declaration file includes the following documents:

- > Application form for publication in the JOAFE
- > Articles of association of the endowment fund, which must in particular list the name and address of the registered office, its purpose and the duration for which it is created
- > List of persons in charge of its administration, including their surname, first name, date and place of birth, profession, domicile and nationality.

A receipt is issued within 5 working days of the filing of the declaration when the declaration file is complete.

The prefectural department sends the form for publication in the JOAFE to the Directorate for Legal and Administrative Information (Dila).



Patronage is defined as material support provided, without any direct counterpart on the part of the beneficiary, to an organisation to support a work of general interest. It occurs in the form of a donation (in cash, in kind or in skills).

The recipient of this donation may be a public or private non-profit organisation or a company the capital of which is wholly owned by public law entities (State, national public institutions, local authorities).

About tax treatment

In the case of companies, a donation entitles them to a tax reduction equal to 60% of the amount, up to a ceiling of 5 per thousand of turnover excluding tax. This deduction is to be made directly on the tax.

The tax reduction is allocated:

- For companies subject to corporation tax (IS): on the balance of the tax due for the financial year during which the payments are made;
- For companies subject to income tax (IR): on the tax due for the year in which the payments are made, regardless of the closing date of the financial year;

About consideration

Consideration is an advantage offered by the beneficiary to the donor in addition to the tax reduction. The value of this consideration must remain “substantially disproportionate” to the amount of the grant. A ratio of 1 to 4 is thus allowed between the amounts of the consideration and that of the donation, with the value of the consideration granted to the sponsoring company not exceeding 25% of the amount of the donation.



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Business France proposes free, confidential support to help you get established in France, in whatever form: a new site, an extension to an existing site, an industrial or technology partnership, an acquisition or a financial investment.

Business France helps you reach a decision and supports you throughout the course of your project, drawing on its network of regional partners.

Support offered by Business France:

- A sound **understanding of the business environment**, including the regulatory framework, tax regime, social security regime and ways of setting up business, to help you make an informed decision to invest in France
- **Identifying public support mechanisms** (grants, tax credits, exemptions, loans, etc.) that could facilitate and speed up your planned investment
- **Welcoming talented foreigners and their families**
- **In-depth knowledge of France's advantages and benefits broken down by sector**, the power of its ecosystems and its talent pools
- Information on **investment opportunities in France**
- **Facilitating administrative procedures and putting you in touch with the relevant authorities** to make your investment secure
- **Putting you in touch with private partners** to guide and advise you throughout the process of setting up in France

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Mazars offers comprehensive legal support to foreign investors in France, from helping with setup formalities, to advising you regarding the growth of your local operations:

- **Identifying the right type of investment project:** We help you navigate the various business setup options available in France.
- **Setting up business:**
 - > Drafting legal documentation and registering the entity on the Companies Register.
 - > Drafting / reviewing your lease agreements.
 - > Drafting template commercial documents for your new establishment in France (general terms and conditions of sale or service provision, or any other sales agreement).
- **Day-to-day legal support for your French entity:**
 - > Approving annual financial statements and helping with the formalities required to submit them to the Companies Register.
 - > Drafting common legal documents (transfer of the registered office, change of governance, capital increase, etc.) and conducting the formalities relating to these processes.
- **Identifying the needs of the French entity in terms of distribution:**
 - > Advice on distribution strategies.
 - > Drafting / reviewing distribution agreements.
 - > Legal support during your negotiations.
- **Developing your French-based entity:**
 - > M&A (mergers, acquisitions, restructuring, etc.)
 - > Raising capital and bringing in new investors.

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Mazars Société d'Avocats

1 rue des Arquebusiers
67000 STRASBOURG – France
Tel: +33 (0)3 88 24 25 85

Caroline DEVOUCOUX

Avocat associé
caroline.devoucoux@avocats-mazars.com
Tel: + 33 (0)3 88 24 74 59

Laurence SUCHET

Avocat associé
laurence.suchet@avocats-mazars.com
Tel: + 33 (0)3 88 24 74 52

Claire Gueydan

Associée, Membre du Management Board
en charge de l'international
claire.gueydan@mazars.fr
Tel: + 33 (0)6 60 12 91 32



Business France

77 Boulevard Saint Jacques
75998 Paris 14
Tel: +33 (0)1 40 73 30 00
<https://investinfrance.fr>
<https://www.welcometofrance.com>

Sandrine COQUELARD

Head of Legal and Business
Environment Department
sandrine.coquelard@businessfrance.fr
Tel: + 33 (0)1 40 74 73 40

Jean Baptiste BOHL

Legal Expert
jeanbaptiste.bohl@businessfrance.fr
Tel: +33 (0)1 40 73 32 45

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