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Accountants &
business advisers

Doing business in France



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Preface

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Introduction

Geography

France has a total surface area of 633,000 sq km (244,000 sq mi) – metropolitan France covers 544,000 sq km (210,000 sq mi), which makes it the largest country in Western Europe, almost one fifth of the total area of the European Union, with a vast maritime zone, between the North and the South of Europe.

Metropolitan France is bordered (clockwise from the north) by Belgium, Luxembourg, Germany, Switzerland, Italy, Monaco, Andorra, and Spain.

In addition to its 96 metropolitan departments, France includes a number of outposts and islands scattered all over the world (West Indies, Indian Ocean, South America, and Pacific). These overseas departments (DOM) and collectivities (TOM) are a legacy of its colonial past and of the journeys made by French explorers.

With 63.8 million inhabitants as of January 2008, France ranks second among the most populated countries in Europe.

Advantages of Investing in France

Top tourist destination on the planet, France ranks second worldwide for direct inward investment. Investing in France has several advantages. Foreign investors appreciate the skills of French workers, the advanced level of research, the mastery of high technology, the stable currency (euro) and control of production costs.

France has high-quality higher education (universities and prestigious graduate institutions). Technicians, supervisors, engineers, managers and civil servants all benefit from excellent training. The country comes third in the percentage of those aged 20-24 in full-time education, and second in the level of qualification of its labor force and the percentage of those aged 20-29 with degrees in science and technology.

By devoting 2.2% of its Gross Domestic Product (GDP) to research, France occupies a select place in the leading group of countries producing knowledge and innovation. It has a multitude of highly reputed research centers as the national institute of agronomic research (INRA), the national institute of health and medical research (INSERM) and the institute of Earth Physics. With 12,000 research workers, the national centre for scientific research (CNRS) is the biggest research body in Europe.

France is going to increase public and private spending on research by 70%, raising it from 2.2% of GDP to 3% by 2010. This intellectual "hitting power" has been behind some great technological ventures, like the Ariane rocket, the Airbus and the high speed train (TGV - HST).

France is pulling itself up into first place among leading countries in terms of hourly productivity. It also has one of the lowest rates of absenteeism in the world. Contrary to all too oft-repeated clichés, France is not paralyzed by strikes and social unrest.

As for energy costs, these are ahead of the European average. On the telephony front, mobile and broadband coverage reach the whole country, including rural areas.

France has also introduced special taxation and financial incentives to encourage multinational companies to establish their regional headquarters in France.

Investment in France is a reliable entry point for investments in the European region.

Constitution

France is a republic that ruled by the 1958 Constitution. This Constitution limits the power of Parliament and makes the President a powerful executive.

The Head of State is the President of the Republic. He is elected for

a five-year term by direct universal suffrage. He appoints the Prime Minister and, on the latter's recommendation, appoints the other members of the Government. The French parliament is a bicameral legislature comprising a National Assembly (Assemblée Nationale) and a Senate.

Economy

Member of the G8 group of leading industrialised countries, France is the world's sixth largest economic power in terms of GDP. The leading sectors are varied and include its construction and civil engineering, transport and telecommunication sectors, its agrifood, pharmaceutical, chemicals, automotive and aerospace industries, along with banking, insurance, tourism and the traditional luxury products (leather goods, ready-to-wear fashion, perfumes, fine wines and spirits, etc.).

It has been a member of the European Economic Community (now the European Union) from its inception. It is now a member for the Single European Market which was created on 1st November 1993, by ratification of the Maastricht treaty. The Single Market represents a domestic market of more than 490 million people.

Paris is one of the most important business centres in the world. In addition to being a member of the Single Market, France has also strong historical trading links with African countries.

Communications

France has one of the best communication networks in the world for private as well as commercial and industrial use. Communication with all parts of the world is guaranteed by a reliable telephone system. The cost of calling from a land line is still the lowest in Europe.

Language and Currency

The main language spoken in France is French. The currency used is Euro (€).

Legal System

The French legal system is based on the civil law tradition which has at its core five codes: civil, civil procedure, commercial, criminal, and criminal procedure. An important distinction in French law lies between "public law" and "private law." Public law includes questions relating to government, the constitution, public administration, and criminal law; private law includes questions of justice between private persons or corporations. It operates with a clear-cut distinction between judicial courts.

Judicial and administrative authorities each have two levels of jurisdiction (first instance and appeal). The Court of Appeal (Cour de cassation) is the highest jurisdiction in the judicial system, and the Council of State the highest in the administrative one. Disputes of competence between the two systems are settled by the Tribunal des Conflits (Jurisdictional Court).

Also worth of mention is the growing importance of European jurisdictions: the Court of Justice of the European Communities and the European Court of Human Rights.

Major Export & Imports

France is the fifth largest exporter of goods (mainly durables) and fourth largest of services. It is the leading producer and exporter of farm products (especially in cereals and the agrifood sector) in Europe.

France does 66% of its trade with its European Union partners (50% within the euro area).

The major export of goods are machinery & transportation equipment, aircraft, plastics, chemicals, pharmaceuticals, iron and steel, and farm products. France's main customers are Germany, Italy, the United Kingdom, Belgium, Luxembourg, Spain and the United States.

The major imports of goods are petroleum, machinery & equipment, vehicles, crude oil, aircraft, plastics and chemicals. France's main import partners are Germany, Spain, the United Kingdom, Italy, Belgium, and the United States.

Government Policy on Foreign Investment

Foreign companies can freely set up their business activities in France, although mandatory declarations are required for investments that are made through setting up new companies where the investment exceeds 1.5 million, and more generally, operations that result in the acquisition of all or part of a line of business, or the acquisition of a direct or indirect equity interest in a French company amounting to more than a third of its shares or voting rights.

The legal position of investors is the same as for French held companies: they are therefore able to acquire or rent property; acquire French companies; or create their own legal entity.

The French government is committed to helping companies of all nationalities to set up and develop their business in France, particularly by means of sustained incentive policies (see Chapter Grants and Incentives) and administrative formalities having been considerably simplified. This support depends on the type of investment project (productive investment, research and development, innovation, training, etc.), the location of the investment project (priority development zones or non priority zones) and the type of company (large corporation, SME).

The French authorities support investment projects that entail:

- Investment and job creation by large corporations in economically disadvantaged regions and regions undergoing industrial redevelopment;
- Business R&D projects;
- Professional training programs for employees;
- Job creation for defined populations;
- Investment and job creation by SMEs in all parts of the country;
- Protection of the environment.

Import Controls

France as other country-member of the European Union is subjected to European legislation in what concerns importation of certain goods, animals, plants, drugs, food, fire arms and motor vehicles.

Trades within the European Union are conducted freely without formalities or border controls, except for some products (alcoholic beverages, manufactured tobacco, petroleum products, firearms, military goods, narcotic drugs, waste, medicinal products for human use, animal and plant products, and cultural goods).

Source of Finance

The world's financial institutions are represented in France. Therefore, a full range of financial services is available (see Chapter Regulatory Framework – Financial Services).

Exchange Control

In principle, inbound non-resident investments in France are free of prior review. They remain subject to a simple administrative declaration when the investment is realized, unless the investment

is in a “sensitive” economic sector.

When the non resident investment is in a sensitive economic sector (sectors in which the State exercises its public authority, involving public order, public health, or public security, and investments in munitions, explosives and war materials), a prior authorization must be filed with the French Treasury, which will have one month to review the application for approval.

French Business Number

Individuals and companies that carry on business in France are required to register with the centre for administrative formalities (Centre de Formalités des Entreprises CFE). According to the business activity, they will register with Chamber of Commerce and Industry for companies or with the Chamber of trade for crafts.

The SIREN number (made up of three groups of three digits) is the business reference number used by French administrative offices.

A VAT number (numéro de TVA intracommunautaire) is issued to companies and individuals providing services or selling goods and products. It is obligatory above a certain threshold of income, optional below that threshold. A French VAT number is made up of 13 characters: the two-character country code (FR), a two-digit data processing code and the SIREN number. The TVA number must be quoted on all invoices issued by a TVA-registered business.

Business Structures



Types of Business Structures

Private Limited companies registered in France carry the suffix "SARL" (Société à Responsabilité Limitée) or SAS (Société par Actions Simplifiée). Public limited companies carry the suffix "SA" (Société Anonyme). Any SA, SAS or SARL incorporated in France is deemed to be a resident of France, even though its central management and control might be exercised elsewhere.

The French corporate income tax system is based on the principle of territoriality. In broad terms, a resident company is liable for French tax only on the profits of business carried out in France. A non-resident foreign public limited company is subject to corporate income tax if it conducts business in France.

Branch or Agency

In general, there are no disclosure requirements for a foreign company, which operates through an agency and has not established a branch or place of business in France.

A company incorporated outside France, which establishes a place of business in France, is obliged to take the following steps:

- Declare a direct investment to the Ministry of Economy and Finance;
- Apply for a commercial card or a resident visa for the manager of the branch if he is not a member of an E.U. country;
- Register with the Registrar of the Companies (Registre du Commerce et des Sociétés). Two certified copies of the corporate bylaws of the foreign head office, in French, must be provided;

- Obtain a registration number from the Commercial Court within 15 days.

There is no minimum legal capital requirement for branches of foreign companies.

They are managed by one or more managers, whose powers are set and may be limited by the foreign head office.

For legal purposes, a branch is not a separate legal entity; therefore it is not subject to the Commercial Law and, consequently, does not have to produce financial statements.

A tax return must be filed. The French Tax Authorities can investigate the branch record.

Company

Where a subsidiary company is incorporated in France, the filing requirements are less extensive. A foreign company investing in France would generally incorporate or acquire shares of a company, SA, SAS or SARL.

The French private limited company (SARL) has the attributes of both the partnership and the corporation. It has limited liability and limitations on interest share negotiation.

The SA, SAS and the SARL must file their annual report with the Commercial Court within one month of their approval by the Shareholder's General Meeting:

- Financial statements: balance sheet, income statement, explanatory notes;
- Management report;
- Statutory auditor's opinion.

Forming a Company

The procedures for setting up a company are:

- Drafting a proposed Memorandum and Articles of Association;
- Deciding on the capital structure and amassing the capital itself;
- Depositing the funds for cash subscribers;
- Obtaining the depositary's certificate of funds paid in;
- Signing the Memorandum and Articles of Association;
- Selecting management ;
- Complying with publication and registration procedures:
 - Payment of registration duties,
 - Announcements in legal journals,
 - Filing the articles with the Commercial Court,
 - Registration with the Register of Companies,
 - An announcement in the BODACC (the official bulletin of commercial and civil announcements),
- Various other administrative formalities, such as "déclaration d'existence".
- Withdrawing funds to start up the business.

Comparison of legal requirements between Public Limited companies and Private Limited Companies:

	Public Limited Company (SA)	Private Limited Company (SAS)	Private Limited Company (SARL)
Minimum legal capital	€37,000 * (1/2 paid up on incorporation balance over 5 years)	€37,000 * (1/2 paid up on incorporation balance over 5 years)	no minimum legal capital (1/5 paid up on incorporation balance over 5 years)
Minimum shareholders	7	1	2 for SARL 1 for EURL **
Maximum shareholders	No limitation	No limitation	100
Management	Executive Board of Directors (minimum of 3, maximum of 18) and its President or Directorate and Supervisory council	Freely decided by the articles of association Minimum: 1 President (individual or company)	Managers

* €225,000 if public issue

** One person limited Liability: Company

A company is allowed to start business before its registration with the Registrar of Companies. After its incorporation, the company is required to confirm in its Memorandum and Articles of association, all acts performed on its behalf during the formation period.

By such confirmation, the acts become binding for the company.

Formation of a new company to the point of confirmation would take a minimum of 2 to 4 weeks. Alternatively, it is possible to purchase a company "off the shelf" from one of a number of firms that specialize in such matters. Professional assistance would then be required to tailor it to the specific requirements.

Legal and Accounting Regulations

Companies will have to comply with the following annual obligation:

- Hold an annual general meeting of shareholders;
- File accounts with the Commercial Court.

It should be noted that the financial statements, the statutory auditor's opinion and the management report have to be made available for inspection by the public.

Audit Requirements and Practices

Under the legislation enacting the EU 4th Directive, companies whose annual accounts are required to be audited must appoint an auditor to examine the accounts and express an opinion on whether they present a true and fair view.

The statutory auditor is compulsory for the SA and SAS. He is also compulsory for the SARL meeting two of the following three criteria:

- Total balance sheet €1,550,000
- Turnover (VAT not included) €3,100,000
- Staff 50

The law requires the appointment of two statutory auditors for listed companies or one for non listed companies.

Shareholdings by Non Residents

Shares in French companies do not have to be held by French resident shareholders.

Partnerships

There are three basic types of partnerships:

- Silent partnership (Société en Participation); see joint ventures;

- General partnership (Société en Nom Collectif);
- Limited partnership without shares (Société en Commandite Simple) or with shares (Société en Commandite par Actions).

A general partnership is considered as an entity distinct from its partners, who themselves may be individuals or legal entities. Its profits are taxed only at individual partner level. It is managed by one or more managers who do not necessarily have to be partners.

A limited partnership has two types of partners; general partners who are all deemed merchants and have unlimited personal liability, and limited partners who are only liable for debts to the extent of their interest shares invested in the company's capital.

The minimum number of partners is two. No minimum capital is required. The articles under which a partnership is ruled must be in writing. A partnership is subject to the same publicity and registration requirements as a company (described above).

Joint Ventures

A French joint venture (Société en Participation) is basically a company contract whose signatories (associates) have decided not to have it registered. Its form has no legal personality and therefore it is not subject to the usual filing requirements.

A joint venture is normally considered as a partnership for tax purposes. Earning and losses are passed through to participants who are jointly and severally liable for the joint venture's debts to the pro-rata of their investment.

Trusts

The concept of a trust, as perceived and construed in many common law jurisdictions does not exist in French Law.

Regulatory Framework



Financial Services

In France, overall supervision of financial markets is the responsibility of the Minister of the Economy, Finance and Industry.

The Financial activity modernisation Act of 2 July 1996 radically changed the framework of French financial markets.

There are now only two categories of investment services providers:

- Credit institutions allowed to provide investment services;
- Investment firms (former brokerage firms, money market brokers, portfolio managers and securities firms having opted for this new status).

The law unifies the rules applicable to all regulated securities markets, including fixed-income, equity, spot and futures markets.

The powers of France's supervisory, regulating and surveillance authorities are now linked to services, instead of operator status.

The French financial markets are regulated by three organizations, whose membership includes representatives from the government and the Banque de France as well as financial professionals.

Regulations governing investment service providers authorized to operate in France are laid down by the Comité Consultatif de la Législation et de la Réglementation Financière (CCLRF).

Approval of credit institutions and investment firms authorized to operate in France, except those specialized in portfolio management, is granted by the Comité des Etablissements de Crédit et des Entreprises d'Investissement (CECEI).

The Autorité des Marchés Financiers (AMF) lays down the compliance regulations applicable to investment service providers, market executive bodies and clearing mechanisms, securities

delivery systems and central depositories, subject to approval by the minister.

Securities and futures transactions are carried out over the counter or on regulated markets.

France's regulated fixed-income markets are "la Bourse de Paris" (Paris Stock Market) – now Euronext Paris – which records bond transactions and publishes clearing rates, and Matif SA – a Euronext affiliate – which organizes and clears trades in a range of futures contracts pegged to government securities.

Their powers were extended under the Act of 2 July 1996 onto prudential control of all investment service providers and market operators, and they have now the same supervisory powers over them as over credit institutions.

The Commission Bancaire (Banking Commission) is charged with prudential control over all investment service providers and market operators other than portfolio management companies.

Finally, supervision of public offering is the responsibility of the AMF.

Its role is to protect investors against savings invested in financial instruments or in any markets based on public offering.

It also promotes full public disclosure and supervises the securities markets, the stock exchange and negotiable futures markets and ensures that companies that make public offerings fulfil their periodical reporting obligations and publish true and fair accounts. The AMF has to approve all mutual funds and to monitor their management.

Money Laundering

France has for some years possessed legislation to tackle money laundering.

This requires financial institutions to comply with procedures designed to help prevent, identify and report suspected cases of money laundering to enforcement authorities.

The regulations apply to all those conducting “relevant financial business”. This includes investment business, banking, deposit taking, money transfer, and insurance business.

The regulatory framework is extensive and covers matters such as client identity verification, record-keeping requirements and required procedures for reporting suspected money laundering to the relevant authorities.

Data Protection

The storage of personal data on computer or in an organised manual filing system is subject to the Act of 6 January 1978. A business involved in processing such personal data must register with the CNIL. Personal data must also be processed fairly and lawfully in accordance with the data protection principles.

These require that the individual gives his or her consent for the processing of data and that the processing will be for a necessary purpose (for example in connection with the performance of a contract or to protect the vital interests of the individual).

The business must have safeguards to prevent unlawful or unauthorised processing of data and its loss or destruction.

Breach of provisions of the act of 6 January 1978 can result in criminal prosecution.

Health and Safety

Legally-mandated occupational health and safety regulations are extensive, complex and rather strictly enforced. In addition to imposing these regulations on French enterprises, the Labour Code

requires employers of more than 50 employees to organize a health and safety committee to oversee work conditions at the work place.

All French enterprises must also have a full or part-time labour doctor to perform medical examinations and generally supervise employees' occupational health.

Competition

Competition control is effected both through European law and French law based on ordinance N°86-1243 of December 1, 1986 which freed competition and prices.

Any concerted actions agreements, or intents, whether expressed or tacit, are prohibited when they have the purpose or effect of restraining, prohibiting, or interfering with free competition in a given market.



Business Finance

Comprehensive planning is an essential ingredient for the success of any business. A factor that causes considerable difficulty is raising adequate external finance. This issue is often most keenly felt by smaller businesses which may find securing appropriate (and affordable) funding both confusing and time consuming. Although sources of finance may appear to be scarce and inaccessible, with professional guidance, the problem of obtaining adequate funding for an initial investment, as well as for future growth and expansion, should not prove difficult.

The sources of funding will depend on the size of the business concerned and the level of funding required.

Equity Finance

Business angels

For relatively low levels of equity, wealthy individuals, otherwise known as “business angels” may provide the best source. Business angels will typically provide sums below €500,000 although an investment of €1,500,000 or more is not unknown. The level of involvement in the day-to-day running of the business required by such an individual will vary. Some seek no involvement whatsoever, whilst others are keen to secure full-time employment within the business.

Access to business angels can be obtained through informal channels or via more established introduction services that try to match potential investors with business seeking finance or French tax reliefs.

Private equity

For higher levels of investment, venture capitalists provide a

common source of equity funding.

Currently, the amounts of money potentially available via this source are significant, but success in securing such funding may not be so easy. Venture capitalists typically demand a rapid return on their investments and require evidence of a sound management track record, competitive products and services and a clear exit plan. In return, they may provide not only financial support but also, if they specialise in the business sector concerned, valuable relevant experience designed to assist rapid business growth.

Listing

Obtaining a listing on one of the open markets may provide the solution to business seeking to expand further, where equity of €20,000,000 or more is required.

Listing will not only provide access to capital and growth and a market for trading in the shares, but will also increase public profile and credibility. Eurolist by Euronext™ compartment C now provides an alternative to full listing on Euronext Paris (compartment A).

This is frequently more attractive for smaller, growth-orientated businesses with market capitalisation. A nominated sponsor advisor (usually a merchant bank or stockbroker), will ensure compliance with certain regulatory criteria and established financial control procedures will be essential for a listing to be accepted. More demanding criteria apply for listing on Eurolist by Euronext™ compartment A. These include a three-year track record of trading and income earnings.

Loan Funding

Overdraft

Borrowing from a bank by way of overdraft remains the simplest form of external funding. However, as an overdraft can be called in

at short notice, its use should generally be restricted to short-term cash flow funding, with longer term needs met by more secure loans.

Term loans

Fixed-term loans may provide a better solution to fund start-up costs, since repayment schedules and interest rates can be agreed and budgeted for from the outset. Such loans are usually by personal guarantee or by a fixed charge over property, debtors or plant and machinery. For smaller companies, the lender may also require personal guarantees from the directors or controlling shareholders.

Fixed or variable interest rates may be available, with more complex arrangements available for larger loans. These restrict the interest chargeable.

Other loans

Loans may also be available from local sources including local authorities. Loans to assist in the purchase of specific assets may come in different forms, varying from straight-forward hire purchase of items through to finance or operating leases. As each method will have differing cost and taxation implications, device should be sought on the most appropriate method for each situation.

Factoring and discounting

For an established business, these methods can provide a means of securing funding on the strength of monies owed to the business by its debtors. With factoring, the factor pays the company a proportion of the relevant invoiced amount and is then free to

collect the debt for itself. Once collected, the balance of the invoice, less interest and administration charges, is paid over to the business.

The business will usually remain liable to pay the factor for any bad debts. With invoice discounting, the business itself retains control of the debt collection. All the factor does is providing a proportion of the invoice face value until such a time as the debt is collected.

Taxation



Introduction

Taxes are levied by the Government and collected by the public administrations. French "public administrations" are made up of two different institutions:

- Central government, i.e. the national government or the state ("l'État"). It collects most of the taxes, as income tax and VAT;
- Local governments, which include agencies with limited territorial jurisdiction. They collect many taxes, but their weight is rather limited compared to that of central government.

In France there are three categories of taxes on income: the corporate tax, the income tax for individuals and taxes for social purposes (CSG and the CRDS, paid by the households). Taxes paid by employers on the total amount of wage, named social contributions, are not considered as taxes by the French central government as they are collected for the purpose of social protection and taxpayers can benefit from these expenses.

Fiscal Year

The fiscal year usually ends on 31 December, although each company can choose its fiscal by reference to its accounting year and do not require that the period reported on constitutes a calendar year.

Taxpayers

Individuals and corporations are taxpayers, and they are liable to income tax.

Partnerships and joint ventures are not taxable entities in their own right. They are required to lodge income tax returns, although the income they derive is taxed in the hands of the related partners, participants or beneficiaries.

Payment of Tax

For companies, tax is payable in four installments, the due dates being respectively 15 March, 15 June, 15 September and 15 December for accounting years ending 31 December. The balance must be paid by the 15th of the fourth month after the accounting year end. Installments amount to 8.33% of the fiscal profits of the last complete accounting period.

For individuals, the tax return due before March (year Y) relates to the income derived in the previous year (year Y-1) and the tax is paid in three instalments in year Y (15 February, 15 May and 15 September). The first two instalments are calculated simply as one-third of the tax paid in the previous year and the third represents the balance of the liability. Alternatively, the tax payer can elect to pay his tax monthly.

Lodgement of Returns

Taxpayers are required to lodge returns annually.

Interaction with International Tax Regime

Tax treaties

France has a comprehensive series of tax treaties. The terms of each are not identical and, before investing in France, the relevant treaty or treaties should be examined carefully.

Tax haven

Anti-tax haven measures have been taken. Payments which are made by a French company to a resident or to a bank account in a country benefiting from a "privileged tax system" are not deductible and are presumed to be dividends unless the payer can prove that the amounts paid are in compensation of an actual normal transaction and that such amounts are not exaggerated. A tax haven is a country where there is no tax or where the tax paid is at least 50% lower than the tax a French resident would have to pay in his own country. When a French company owns, directly or indirectly, more than 50% of the share capital of a company located in a tax haven the French company is taxed as if it had received its prorata share of the tax haven company's profits.

Taxation of Companies

The French corporate income tax system is based on the principle of territoriality. Therefore:

- Net profits earned by foreign based subsidiaries and permanent establishments of French companies are not subject to French tax until these profits have been actually repatriated to France and distributed by the French company to its shareholders;
- Non-resident foreign corporations are subject to corporate tax if they conduct business in France.

Under domestic law, the conduct of business arises where it is carried out through an autonomous establishment. Under tax treaties, the conduct of business is deemed to arise when it is carried out through a permanent establishment of a foreign legal vehicle. It can be either a fixed place of business or a dependent agent who is usually empowered to contract on behalf of a non-resident.

Taxable incomes

Taxable income is determined on the basis of the accounting results. When the tax rule diverges from an accounting principle, adjustments are made in the tax computation.

Business profits are defined as gross trading profits less manufacturing, administrative and selling expenses. All expenses incurred in the conduct of business are deductible if they are directly related to achieving the corporate purpose of the French corporation. Some items such as company car tax are non-deductible. Some items such as the organic tax are deductible in the year they are paid. Special rules apply in respect of the categories listed below.

Income tax rate

The company tax rate is currently 33 1/3%.

There is a special lower rate of 15% for SMEs (turnover under €7,630,000 and at least 75% owned by individuals). The first €38,120 of profits are taxed at the lower amount and the rest is taxed at 33 1/3%.

Starting from 1st January 2007, long term capital gains from the alienation of shareholdings are exempted, except a share of 5% of fees and expenses (so the taxation is equal to 1.66% of the gain).

A social contribution on profits (contribution sociale sur les bénéfiques CSB) equal to 3.3% of such tax computed on the profits taxable at the standard rate (33 1/3%) and the reduced rates less a relief which may not exceed €763,000 by periods of twelve months. Shall be exempted from this contribution, companies the turnover of which is less than €7 630,000 and the fully paid-up capital of which is continuously held, for at least 75%, by individuals or a company meeting the same conditions.

Lastly, corporate bodies liable to corporation tax are subject to an

annual notional taxation (IFA Imposition Annuelle Forfaitaire). Such taxation is determined according to a progressive scale adjusting the tax amount depending on the turnover grossed up by the financial proceeds (Article 223 septies of the French tax code). Shall be exempted from the annual notional taxation (IFA) the corporate bodies whose turnover grossed up by the financial proceeds is lower than €400,000 (€300,000 in 2006). From 1 January 2006, IFA has not been considered as a tax advance but as an expense deductible from the taxable result of the company. Payment is due on 15 March in respect of the previous year.

Profits and losses arising from the sale of fixed assets are subject to specific tax rules.

Concerning companies subject to corporate income tax, such profits and losses are taxable at the corporate income tax rate (33.1/3% or 15%), except for capital gains resulting from the sale of shares held as participation which are tax exempted if held for more than 2 years.

Concerning companies subject to income tax, a basic distinction is made between short and long-term capital gains and losses.

The following chart sets out schematically the definition of short and long term capital gains and losses:

Nature of Fixed Assets sold	Capital Gain		Capital Loss	
	Holding period		Holding period	
	Less than 2 years	2 years and more	Less than 2 years	2 years and more
Depreciable Assets	ST*	ST for depreciation LT over	ST	ST
Non depreciable Assets: shares held as participation	ST	Exempted	Exempted	Exempted
All other assets	ST	LT	ST	LT

ST = Short Term - LT = Long Term

Capital gains on real estate companies are treated as long term capital gains.

Royalties received from outside France are treated as long-term capital gains.

Depreciation reserves for financial securities, other than shares held as participations, which are no longer justified are taken into income at the full standard corporate tax rate.

Short-term capital gains and losses for the fiscal year are offset against each other and included in the operation profit.

Long term capital gains and losses for a fiscal year are offset against each other and treated as follows:

- If the net amount is a loss, it may not be deducted from profits subject to corporate income tax. It can be carried forward for ten years to offset future long-term capital gains.

- If the net amount is a gain, it may be used to offset prior long-term capital losses carried forward or to absorb operating losses.

The taxation rate of long term capital gains is 15% increased by a 3.3% social contribution if their corporation tax exceeds €763,000.

Long term losses from the alienation of shareholdings are not tax deductible.

Operating losses may be carried forward to offset profits earned indefinitely. They are not permitted to be transferred to another company without a special agreement.

Operation losses resulting from depreciation of shareholdings are not deductible.

Taxpayers may also adopt a form of carry back. Loss in a given fiscal year may be offset against undistributed taxable profits of the three previous fiscal years. The excess tax paid gives rise to a credit, which may be used against tax due in subsequent years. The tax credit is reimbursed if not used within five years.

Branch profits tax

There are four bases of assessment:

- The normal system which is territorial and applies to each company individually. Foreign branch profits are exempt from corporate tax. French branches of foreign companies will generally only be taxed in France on French-sourced income;
- The integrated basis (95% owned subsidiary taxation);
- The consolidated basis (50% owned subsidiary taxation);
- The worldwide income basis (subsidiaries excluded).

The latter two systems can be adopted only with the consent of the French Government and have been used very rarely.

Interest deductions

As from 1 January 2007, interest paid to related entities is tax deductible, subject to the following limitations:

- The interest rate does not exceed the average rate of interest on bonds issued by private French companies or if higher, the rate that would be offered by non-related banks on similar terms and conditions;
- Interest paid must not exceed the higher of the following three limits:
 - The average amount of related parties loans must not exceed 1.5 times the net equity of the borrowing entity;
 - Interest paid on related parties loans must not exceed 25% of the borrowing entity's net income before tax, after adding back depreciation deductions and the interest on such related parties' debt;
 - Interest paid on related party loans does not exceed the interest received by the borrowing entity on loans it has itself made to related parties.

The portion of the interest which exceeds the higher of the above three limits is not deductible from that year's taxable results (except if it does not exceed €150,000) but may be carried forward subject to a 5% discount for each year.

Taxation of capital gains

Capital gains are generally deemed to be ordinary income. As from 2007, no tax is due on gains relating to participation shares. Under the participation exemption, 95% of the gains derived from the disposal of qualifying shares are exempt from tax. The remaining 5% is taxed in the normal manner.

Shares qualifying for the participation exemption are those where:

- The parent has held at least 5% of the subsidiary's capital for at least two years; or
- No minimum participation is required when the parent controls the subsidiary and the shares have a base cost of at least €22.8 million.

In addition, proceeds from the licensing of patents, patentable inventions and associated manufacturing processes qualify, subject to certain conditions, for a reduced capital gains rate of 15% although they constitute royalty income in the strictest sense. From 26 September 2007, the reduced rate also applies to the disposal of such patents, except between related companies. Such disposals are classed as producing "long term" gains or losses.

A net long-term loss can generally only be carried forward to offset long term capital gains arising in the following ten years.

Repatriation of profit and transfer pricing

Dividends distributed by a French company to a person resident outside France are subject to a 25% or 18% withholding tax. Under the tax treaties, this rate is normally reduced to 15% or 0% for corporate shareholders above a certain amount of shares held.

Dividends payable to residents within the EU are not subject to any withholding tax, providing certain conditions are adhered to.

Interest distributed by a French company to a person resident outside France is subject to a 15% withholding tax. Under tax treaties, this rate is normally reduced to 10% or 0%.

Pre-tax income indirectly transferred abroad either through an increase or decrease of purchase or sales price, or by any other means, to an enterprise established outside France which controls or is controlled by the French corporate taxpayer may be added back to taxable income by the Tax Authorities. Groups of

companies may obtain an advance transfer pricing agreement from the French Ministry of Finance.

Inventory valuation

Inventory may be valued at each year end at cost price, market selling value or replacement cost. On the balance sheet, inventories must be shown at cost price. If market value is lower, a reserve for depreciation of inventories must be disclosed separately as a deduction from cost.

Cost is defined as the actual purchase price or actual production cost (excluding financial charges) or, if lower, the price at which the goods may be sold. FIFO or the average cost method must be applied. LIFO is prohibited.

Depreciation

Only two methods of calculating depreciation on a business' assets are permitted in France, the straight-line and, the declining balance method, reserved to certain categories of goods or components:

Special accelerated depreciation may be authorized in certain circumstances such as unmovable installations used for scientific and technological research and for purification of water or air.

Only four of the many specialized bonus depreciation schemes are worth mentioning:

- Energy conservation equipment: may be written off over 12 months on a straight-line basis,
- Anti-pollution construction may be written off over 12 months on a straight- line basis,
- Development subsidies: depreciation based on assets financed by government subsidies are increased by $\frac{1}{2}$ of the subsidy amount,

- Cinema and video production, and innovating companies: 50% of the cost of an investment in the share of a film or video production company, or in the shares of an innovating investment company can be written off in the year in which the investment is made.

Depreciation charged in a loss-making year is treated as deferred to the next subsequent profitable years.

The depreciation is deemed to be deferred for tax purposes provided it is properly disclosed in the annual corporate tax return and provided that the depreciation claimed on the assets in total is at least equal to the depreciation that would have been claimed on those assets on a straight line basis.

Timing differences

According to the Tax Code, a business can deduct from its gross income any reserve intended to cover a clearly specified tax deductible loss or expense that current events make probable, and not merely possible or potential.

Income from entities not subject to company tax

A company having interest in an entity not subject to company tax (such as partnerships or GIE) must include in its gross income its share in the earnings of the partnership entity whether the entity actually distributes its earnings or not.

Regional development

An asset investment subsidy received from a state, a local government entity or an approved association, can be excluded from the gross income the year received, provided the subsidy is included in income when the subsidized asset is depreciated. If the asset is not depreciable, the subsidy must be amortized over the

number of years the newly acquired asset is non-transferable, or 10 years if there are no limits on transferability.

Disallowable items

The part of a person's total compensation deemed to be excessive for the size of the company and the work performed will be disallowable for tax purposes.

Administrator's "attendance fees" are deductible by the corporation if the total amount paid does not exceed 5% of the average remuneration of the 5 or 10 highest paid employees (depending on the size of the corporation) multiplied by the number of administrators.

The main non-deductible taxes are: the corporate tax itself, personal income tax and company car tax.

Advance on loan made by company's associates: the deductibility of interest paid to a company's associate or to the companies of a same group for money advanced or lent to their company is permitted under several conditions:

The company's capital must be entirely paid up, only for interests paid to a company's associate.

The interest rate does not exceed the yearly average rate applied to loans granted by French financial establishments to corporations with an initial duration of more than 2 years (the average rate published in the Journal Officiel is equal to 4.48% for the year 2006), or starting from 1st January 2007 at the market rate if it is higher.

Starting from 1st January 2007, the deductibility of interests paid by an undercapitalized company is permitted under three cumulative conditions:

The advance does not exceed one and a half time the capital of the company. The interests paid do not exceed 25% of earning before

taxes majored by these interests. The interests paid do not exceed the interests received by these companies. The part of interests exceeded the highest of these limits is disallowable, unless this part is lower than €150,000.

Financial support to a subsidiary: when financial support takes the form of relinquishing a debt, the amount forgiven will be a deductible expense for the parent company if the justification is for commercial reasons. If the debt forgiven is for financial reasons, it becomes deductible for the parent company to the extent that the subsidiary's net value is not increased above zero.

Financial support to a foreign subsidiary: financial support to a foreign subsidiary is not deductible on the exception that such support is granted to protect its commercial interests or supply's sources.

Special restrictions on operation expenses: the Tax Code expressly prohibits enterprises from deducting expenditures for hunting, fishing, pleasure boats and recreational housing. The same rules generally limit the depreciable basis of company cars to no more than €18,300.

Taxation of Individuals

Income tax

Income tax is payable by French residents on non-exempt income derived from all sources (worldwide income). Non-residents are only required to pay tax on French-sourced income.

French law establishes three criteria, any one of which is sufficient to indicate that an individual is resident in France for tax purposes:

- Habitual residence of the person or family

- Principal place of residence (more than 183 days in a calendar year)
- Professional activity or centre of economic interests.

Income tax is payable on assessable income less allowable deductions. Assessable income includes property income, industrial or commercial profits, certain directors' remuneration, agricultural profits, wages, salaries, pensions and life annuities, non-commercial profits and investment income. Allowable deductions include expenses incurred in performing the duties of an office of employment, interest on loans and pension contributions. There are other deductions such as an allowance paid to members of the taxpayer's family and investment incentives.

The family quota or coefficient system mitigates the effect of the progressive nature of the tax rate scale. A single person with no dependents has a coefficient of one and pays tax on their actual taxable France 5 income. By comparison, a married couple with two children has a coefficient of three and pays tax by dividing their income first by three, calculating an amount due as if they were single, and then multiplying the amount due by three.

The following table gives the rates of tax for 2009 assessment of 2008 individual income:

Bracket of Individual Taxable Income in €	Tax Rate (%)
0 to 5,852	0
5,852 to 11,673	5.5
11,673 to 25,926	14
25,926 to 69,505	30
Over 67,505	40

Furthermore, most forms of income of French residents are subject to "social contributions" with a general level of tax of 8% or 11% (in the case of investment income).

As from 1 January 2008, gains from the sale of long-term business assets (e.g. held for at least two years) are subject to a flat rate of tax of 18%. Capital gains on any immovable property are exempt if the sales price does not exceed €25,000 or the asset concerned is the taxpayer's principal residence

Wealth tax

The wealth tax (called the Impôt de solidarité sur la fortune - ISF) is imposed on individuals who are tax residents of France and whose taxable net worth is more than €770,000 (from January 1st, 2008).

Like personal income tax, the net wealth tax is imposed on a fiscal household basis.

To avoid having couples evade the tax by divorce or failing to get married, couples living together on a more or less permanent basis will be taxed as if a fiscal household. The parties to a domestic partnership are taxed as if a fiscal household. The domestic rule is that individuals domiciled in France are liable for net wealth tax on their worldwide property. Individuals who are not domiciled in France are only liable to the ISF on their French-situs property.

The ISF base comprises the fair market value of all worldwide taxable assets owned by the taxpaying household. Succession duty rules and presumption are read into the ISF to determine ownership and value. The French court will allow a 30% valuation discount to a family residence because the family occupies the residence and the market will pay less for a residence that is occupied.

Not all property is taxed. The major exclusion from the ISF tax base is business assets. Business assets are defined as the property necessary for the owner to engage in an industrial, commercial, craft, agricultural activity or a liberal profession as his principal activity.

Only a taxpaying household's net wealth is taxed. Debts and other liabilities of the household (other than those related to exclude

business assets) may be deducted in computing net wealth.

Tax shield (bouclier fiscal)

The total household annual direct tax liability (personal income tax, wealth tax and local property taxes for the principal residence) may not exceed 60% of the tax household revenue of the preceding year. If it does, a corresponding refund is granted upon request. The tax shield was reduced to 50% of annual income from 1 January 2008 onwards and social taxes are included.

Succession duties

Succession duties are paid upon the transfer of assets of the deceased whether by intestate succession, inheritance by will, or any other transfer by reason of death. The share of marital estate that is owned by the surviving spouse under the relevant marital regime or a prenuptial agreement escapes duties, except in certain cases, such as when there are children from a prior marriage.

France has the right under its domestic law to tax the entire estate (world-wide assets) of individuals who were domiciled in France at the time of their death.

The tax is due on all property transferred by will, by intestate succession or donation before death. A declaration giving a description and valuation of the assets received must be sent to the Administration within six months of the death. The rates of tax range from 5% to 60%.

The domestic rules of French taxing jurisdiction may be overridden by applicable French gift and estate tax treaties. Approximately thirty tax treaties cover inheritance taxes and succession and gift duties.

Sales Tax/Value Added Tax (VAT)

VAT is applicable to supplies of personal (movable) property and supplies of services by a VAT liable person acting as such for consideration.

Activities subject to or exempt from VAT

In general all economic activities conducted in France are subject to VAT. Certain activities are specifically exempt from VAT by law: health care professions, certain educational activities, insurance and reinsurance companies, certain financial services, and immovable property rentals. Other activities expressly exempt by law may be subject to VAT by election of the person performing the activity.

Territoriality

While the definition of activities subject to VAT is very wide, the application of VAT has territorial limits.

For VAT purposes, France is defined as metropolitan France, including Monaco and Corsica. The overseas departments obey to special rules.

The EU member states are: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Spain, Sweden, and the United-Kingdom.

The supply of goods is defined as the transfer of power to dispose of tangible personal property as if one were the owner.

Three situations need to be considered:

1. The property sold does not leave French territory. Therefore it is subject to French VAT.
2. The property sold is destined to a foreign country. French VAT is not due since the export exemption comes into play.
3. The property contracted for enters France from abroad. The entrance of merchandise into France triggers French VAT liability.

Concerning the intra-community acquisition of goods, it is a principle that the acquisition by the customer is taxed in the destination state as a purely domestic transaction and the delivery by the seller is exempt in the seller's state.

The supply of services is defined as a transaction other than a delivery of goods.

Services are subject to VAT when the person providing the services is established in France. This general rule applies only in exceptional circumstances.

To determine whether the French VAT applies, services should be broken down into three categories:

1. Services physically located in France are subject to VAT.
2. Immaterial services such as advertising, consultants' services, transfers and assignments of copyrights, patents, licences and trademarks are subject to French VAT according to specific territorial rules which are summarized in the table next page.

"Yes" means that in the particular territory, the service is subject to the French VAT rule.

Customer	France	Supplier Other EC States	Outside EC
France			
Taxable person	Yes	Yes	Yes
Non-taxable person	Yes	No	(1)
Other EC States			
Taxable person	No (3)	No	No
Non-taxable person	(2)	No	No
Outside EC	No	No	No

(1) Yes, if service is used in France. No if the service is used outside France.

(2) No, if certain international organisations are involved.

(3) But the VAT has to be paid in the other EC state

- Other services are taxed in France when the supplier has an established business or a fixed establishment from which his services are supplied within the French territory.

Services related to intra-Community transactions follow specific rules based on the notion of direct client of the person rendering the service.

If the supplier of the service is not established in France, and if the service is VAT liable in France, the client is VAT liable if he is normally identified in France. If the client is not identified, then the supplier of the service is VAT liable.

VAT rates

The French VAT rate system can be summarized as follows:

- Standard rate: 19.60% since 1st April 2000.
- Reduced rate: 5.5%

Goods:

- Food (excluding most beverages)
- Agricultural products
- Books.

Services:

- Passenger transport
- Hotel accommodation
- Business's canteens, press agencies
- Amusement parks, Theatres, concert halls.
- Special rate: 2.1%
 - Daily newspapers, periodicals
 - Pharmaceutical products that are reimbursable under the Social Security System.

Recovery of VAT input

VAT is a non-cumulative tax, imposed at each stage of the production and distribution cycle. In theory, each taxpayer pays VAT on the amount of value added to the product. In fact, the taxpayer is liable for VAT on sales, but may offset against this amount any VAT included in the purchase of goods, equipment and services.

There is also the potential problem of partial exemption whereby some goods and supplies are exempted and others are taxable. In these circumstances, the percentage of recoverable VAT input has to be determined.

Since January 1st, 2008, new VAT deduction rules are applicable. From now on, the deductible VAT related to each economic operation is determined according to its coefficient of deduction which is the product of three coefficients: the coefficient of subtraction (use proportion of the good or service for the carry out of VAT taxable operations); the coefficient of taxation (sole VAT saddling goods or services assigned to operation opening to

recoverable VAT is deductible) and the coefficient of admission (takes into account specific rules of exclusion/restriction of the deduction right). According to this new method, VAT liable will have to calculate a coefficient of deduction for each good or service.

VAT input incurred on the following supplies cannot be recovered:

- Goods or services purchased that are not necessary for the purposes of the business,
- Expenses relating to hotels and other accommodations, entertaining and hospitality,
- Transport of persons and ancillary activities,
- Purchase of passenger transport cars and all services relating to them.

Payroll taxes

France has a national system of health, unemployment insurance, and retirement pension fund insurance, which applies to all employers, established in France.

In the absence of a Social security Treaty or other agreement, an employer established outside France, but having an employee working in France, is subject to the French system as is the employee. In this case, the employee in France must file and pay his own as well as his employer's French contribution.

The Social protection covers health and life insurance and guarantees insurance in case of unemployment, the attribution of retirement pension. These social protections are financed by the employer's social contribution as well as by the employee's.

All employers (and this includes foreign employers, unless exempt by treaty) have a legal responsibility to account for health, unemployment insurance, and mandatory and complementary executive pension plan contribution related to all amounts paid to employees.

"All amounts" include: salaries, reimbursements, bonuses and non-cash benefits.

Employers are liable for the employees "share of contribution as well as the employers", since file employers are obliged to withhold employees' contributions.

Payment of Social Security and Unemployment Insurance is due monthly for companies with ten or more employees, quarterly for others.

Payment of Retirement Pension Contributions is due quarterly.

In general, employers also have Mutual insurance and Supplementary Plans for their employees.

In addition to Social Security contributions, payroll taxes are also payable on employee compensation.

The principal payroll taxes are:

- Apprenticeship tax: Payable at the rate of 0.5 % on total annual gross wages and salaries (for companies having more than 250 employees, the rate is 0.6%).
- Employer Training tax: All employers with between 10 and 20 employees pay a contribution of 1.05% of total annual wages and salaries as an investment into vocational training programmes. The rate is 1.60% where there are more than 20 employees. The rate is reduced to 0.55% where there are fewer than ten employees.
- Construction Participation Tax: All employers with ten employees or more must pay a minimum of 0.45% of total gross wages and salaries for the construction of social dwellings.

Other taxes

Fringe benefits tax (FBT)

Goods and services provided to employees are considered as salaries paid in kind, liable to social contributions and income tax.

Local taxes

Various taxes are levied by the Government for the benefit of the local government agencies.

The three most important are:

- Land Tax: This is based on 50% of the rental value of real estate owned by the taxpayer;
- License Business Tax: This is based on the rental value of the fixed assets used by the business. The rates of tax applicable are determined by the local communities of the area;
- Residential Tax: This is a tax on the occupation of property based on the rental value of the property reduced by an allowance for the number of dependants of the occupant.

Company car tax

Companies pay a tax based on the number of cars registered in France which they own, rent for more than one month or are used by their employees for their professional needs driving more than 15,000 km per year. Non-polluting vehicles are exempt from this tax.

Salary tax

Social contribution rates vary from 4.25% to 13.6% based on the level of remuneration paid to employees. This tax is payable by

companies which are not subject to value added tax on at least 90% of their turnover.

Organic tax

This is 0.16% of the annual turnover.

Rates of stamp or transfer duties

As from 6 August 2008, the rate of transfer duties on the selling of shares is set at 3%. The rate is however capped to €5,000 for transfer of corporation shares such as SAS, SA.

In addition, for the transfer of shares other than corporation and real estate company shares, the taxation basis is reduced by an amount of €23,000.

Customs duties

Duties paid on imports when goods are cleared through customs. There is a harmonized international coding system for goods and the EU tariff (TARIC).

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- Construction Participation Tax: All employers with ten employees or more must pay a minimum of 0.45% of total gross wages and salaries for the construction of social dwellings.

Grants and incentives



For many years the French Government, recognizing the economic benefits arising from foreign investment, has been offering substantial grants to encourage investment from both EU and non-EU companies.

The main investment incentives available take the form of subsidies or preferential loan rates. All decisions regarding the amounts of aid granted are made on a case-by-case basis, depending upon the impact of the proposed investment on the economy and on employment.

Tax Concessions

In certain privileged "priority zones" (ZAFR, ZRU, ZRR), companies created between 1 January 1995 and 31 December 2009 to carry out new industrial, commercial or even, under certain terms, non-commercial activities are exempt from corporation tax during the first two years of their operation.

They are also exempt from tax on 75%, 50% and 25% of their profits for the next three years respectively. The exemptions also apply to local business taxes, reduced transfer taxes and accelerated depreciation. Various tax incentives are available to enterprises operating in Corsica, Overseas Departments and specified disadvantaged urban and suburban zones. Expenditure on research, development and training also qualifies for special treatment.

Regional Incentives

Regions affected

In the industrial sector, loans for development are granted in most

parts of Western and Southern France and in some industrial areas of the North East and South West. Exceptionally, loans may be granted in other areas experiencing severe unemployment.

For non-industrial and research operations, grants are available throughout France except for the greater Parisian area and Lyon.

Various other special tax concessions are available in most regions of France. Businesses meeting these particular requirements and establishing operations in any area of France may obtain loans at preferential rates. Many regions and cities offer additional investment incentives which are assessed on a case by case basis: providing land at cheap prices, subsidizing up to 25% of the cost of new buildings.

Eligibility

These investment incentives are available on equal terms to all investors, whether French or foreign.

Tax incentives

Tax incentives take the form of tax holidays, exemptions from local business taxes, reduced transfer taxes, accelerated depreciation and duty free imports in the two free trade zone established in district of Gex and Haute Savoie.

Non-tax incentives

Non-tax incentives take the form of grants and preferential loan rates. DATAR, the Regional Development Agency, provides job-training subsidies.

DATAR has grants available, known as the PAT (Prime d'Aménagement du Territoire), up to the amount of €11,000 per job created and up to a maximum of 25% of the amount invested for industrial operations in one of the development zones. Finally, the

PAT is available for research and related activities: maximum grant of €8,000 per job created.

Industry Incentives

Development grants are available for manufacturing, scientific and technical research enterprises and for certain other activities such as management, engineering, consulting and data processing.

Export Incentives

Subsidized medium and long term loans are available to exporting companies if they meet a minimum requirement in terms of volume and growth of export sales. Supplier credits, designed to assure cash flow financing, are available with long-term foreign obligations.

The COFACE, a quasi-governmental agency, insures loans to foreign purchasers of goods in an effort to promote the exportation of French merchandise. The COFACE also insures creditors against political, commercial, and foreign exchange risks, as well as against the risks of force majeure.

Tariffs Payments

Since the completion of the Internal Market, goods can circulate freely between member states. The "Common Customs Tariff" (CCT) therefore applies to the import of goods across the external borders of the EU.

The tariff is common to all EU members, but the rates of duty differ from one kind of import to another depending on what they are and where they come from. The rates depend on the economic sensitivity of products.

Through the tariff, the Community applies the principle that domestic producers should be able to compete fairly and equally on the Internal Market with manufacturers exporting from other

countries.

Supplies between EU member states are no longer classed as imports or exports and, accordingly, no import duties are levied except in certain circumstances. Additionally, it is no longer necessary to make an import declaration on an acquisition of goods in France from another EU member state.

Tax Incentives for Investors

R&D tax credit

Manufacturing, trading, craft and agricultural companies that spend money on research can obtain a tax credit. This credit can then be applied against their income tax or corporate income tax. If they do not owe any tax, they receive a cash reimbursement of their R&D tax credit after three years.

Eligible research expenditures include spending on basic research, applied research and experimental development. The credit is equal to 30% of the part of the expenditures of the year that do not exceed €100 million, and to 5% for the part over €100 million.

Concerning companies that have never benefitted from it, the tax credit is equal to 50% the first year, and 40% the second year.

The tax credit limit has been removed starting from the 1st January 2008.

Eligible research expenses include:

- Staff costs (gross wages and social contributions) for researchers and research technicians working directly and exclusively on research,
- Operational expenses, inclusively estimated at 75% of staff costs above mentioned,
- Amortization of capital assets acquired for research purposes,

- Amortization of patents and new plant variety certificate, acquired for research purposes
- Cost of research operations contracted out to public or private research organizations, universities, or approved organizations.

A cap of €10 million is set on these outlays per company and per year, increased to €2 million for expenses contracted out to public research organizations and universities, starting from 2008.

Patent filing, maintenance and protection costs, new plant variety certificate are capped at €60,000.

Expenses on technology watch: the cap on eligible spending is now €60,000 per year.

Family tax

Manufacturing, trading and agricultural companies, and liberal professions (tax on non simplify system) can obtain a tax credit equal to 25% of their spending to enable employees with children under the age of three, to achieve a better balance between their working life and their family life. The eligible spending includes expenses for day-care center, training for employees on parental leave, income for employees on maternity, paternity or parental leave, etc.

The tax credit is capped at €500,000 per company and per year. It can be applied against the company's corporate income tax for the year in which the spending was incurred. If the tax credit is greater than the tax due for the year in question, the difference is reimbursed.

Cinema, television and media tax credit

Production Cinema, television and related media companies that pay corporate income tax can obtain a tax credit for certain

production expenditures specified by law. The tax credit is available to companies that act as assistant producers and for operations carried out in France in the production of feature-length films, and obtain the approval of the “Centre National de la Cinématographie” managing director.

The cinema tax credit is calculated for each financial year and is equal to 20% of the eligible expenditures. The total tax credits for a single film are capped at €1,000,000. The tax credit cannot contribute to raise the granted government aids to more than 50% of the production budget. The broadcasting tax credit may not exceed €1,150 per minute produced and delivered; this rises to €1,200 per minute for animated features.

The tax credit can be applied against the company's corporate income tax for the year in which the spending was incurred. If the tax credit is greater than the tax due for the year in question, the difference is reimbursed.

Temporary Business Tax Exemption

Other measures are aimed at helping businesses invest in troubled regions.

In these areas, Local communities (municipalities, departments, regions and intermunicipal authorities) have the right to grant temporary business tax exemptions to companies that set up or expand their business or take over troubled establishments. The exemption may be total or partial and it is limited to 5 years in all cases, but shorter exemptions may be granted as well.

Temporary Corporate Income Tax Exemption

New companies

Newly created companies (between 1st January 2007 to 31st December 2009) located in certain areas may be eligible for a

partial or total temporary corporate income tax exemption.

The exemption is total for the first 24 months. After that, tax is levied on 25% of income in the next twelve-month period, 50% of income in the following period and 75% of income in the period after that.

The tax-exempt income is limited to €200,000 in any 36-month period. This measure is restricted to companies engaging in new business and which are not more than 50% owned by other companies.

The eligible companies may also be exempt from business tax and property tax for two to five years, if the local community has decided to take such a measure.

Companies set up to take over a company in difficulty may also, in specific conditions, be exempt from corporate income tax for the 24 months of activity.

Innovative new companies (JEI)

This exemption is granted to small-medium sized companies whose research and development expenses represent, for each tax period, at least 15% of their tax deductible expenses.

It provides a total exemption of corporate tax income for a period of 36 months, and a partial exemption of 50% in the next 24 months period. These three previous profitable years do not need to be consecutive. The wages of such companies' research staff are exempt from the employers' social security charges for eight years.

This measure is for small and medium-sized enterprises (less than 250 employees, gross income under €50 million and total assets under €43 million) that are mainly (at least 50%) owned directly or indirectly by individuals or by companies that meet the same criteria.

Sales of shares in such companies are exempt from capital gains

tax if the seller has held the shares for three or more years.

"One-man" venture capital company (SUIR)

This entity is a special legal structure owned by a single individual. It provides tax benefits that are commensurate with the high risk of investing in new companies.

Such companies must be founded for the sole purpose of buying founders' shares for cash or contributing to capital increases in unlisted manufacturing or trading companies, created for less than 5 years, located in the European Union that are liable for corporate income tax.

Investments must be in "new" companies that are majority owned by individuals or by other companies that are themselves majority owned by individuals. The one-man venture capital company can own up to 30% of voting rights in these companies.

The tax benefits come in the form of two exemptions:

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

Intellectual and Industrial Property



France has a distinctive system of protection of intellectual and industrial property rights applicable to artistic or creative rights (approximately equivalent to copyright), designs, drawings, patents and trademarks. They are protected by the Intellectual Property code and the centralized authority for registering in France is the National Institute for Intellectual Property (INPI).

Copyright

The French expression "droits d'auteur" (author's right) is generally offered as the equivalent of the common law concept of "copyright", but the two terms are not identical in legal terms:

- Author's rights are primary given to an individual, even an employee, and never to an organization or firm. However, rights can be sold to an organization or a firm;
- Author's rights don't need to be registered.

"Droits d'auteur" grants protection to "any product of the intellect provided that it is original" and that a work is original if "it bears the stamp of its author's personality".

The Intellectual Property code (Art. 112-2) sets out a (non-exhaustive) list of "oeuvres de l'esprit" or "products of the intellect" which include:

- Literary works, journalistic or scientific articles, brochures, titles etc;
- Conferences, court submissions (but not statute or case law), sermons etc;
- Dramatic works, musical works;
- Software etc.

The "droit d'auteur" owner has the exclusive rights to use, or to license others, in regards to copying the work; performing it in

public; broadcasting, publicizing and adapting the work.

Trade Marks and Trade names

The Intellectual Property code (Art 771.1) gives the exclusive use of a registered trade mark or trade name to its registered proprietor in the fields of industry and commerce, or indeed the services sector, or trade names which refer to the geographical or other origin of a product or service etc...

Only trade mark and trade name registered to INPI are protected.

The essential criteria which are necessary in order to obtain protection of a trade mark or name are that they:

- Should not be illicit;
- Should be distinctive;
- Should be available.

Patents

The Intellectual Property code (Art 661-10) gives a patent holder the exclusive right to exploit the innovation or allow others to do so. Protection is only provided where a French patent has been granted by INPI.

The innovation must be capable of being applied to an industrial use, including agriculture but exclude surgical procedures carried out on the human body, scientific and mathematical discoveries, esthetical creations, computer games and software, inventions which are held to be immoral or contrary to public order, parts of the human body and their products.

Immigration



All foreign citizens who wish to come to France must be able to present regulatory proof of the purpose of their stay, means of support and accommodation. In some cases, they need a visa to enter France. Visas must be applied for before leaving for France at a French consular office.

Permanent and Temporary Residence

France is part of the European Union. Consequently, a foreigner residing in France who wishes to set up a business in France must do the following:

- If the foreigner is a citizen of a European Union member state, he must register for a resident card serving as a work permit at the local Prefecture in the town where he is residing in France. This resident card has immediate effect, is valid 5 years, and is renewable.
- If the foreigner is a citizen of a country that is not a member of the European Union, he has specific formalities to carry out. These formalities vary from one country to another and he is advised, foremost, to contact the French embassy or the French consulate of his original country. In all cases, he has to contact the French Foreign Labour Department.

The categories within the economic migration component are:

- Skills and talents permit;
- Salaried and temporary worker permit;
- Employee on assignment permit;
- Employee on assignment card;
- Seasonal worker permit;
- Scientific permit.

Skills and talents permit

The “Skills and talents” permit, valid for an initial period of three years and renewable thereafter, allows carrying out any professional activity in connection with a professional project. It is intended to allow the candidate to participate in the economic development of France and/or his country of origin. The candidate must submit his application to the French Consulate. The Ambassador will decide whether or not he is eligible for this permit.

Salaried and temporary worker permit

Different residence permits can be issued opening up access to specific professions in France. The list of professions can be consulted on www.immigration.gouv.fr.

Employee on assignment permit

This permit is valid for an initial period of three years and renewable thereafter for a candidate employed for at least three months by a company based abroad. The candidate can apply for this permit if he is:

- Seconded to one of the firm’s establishments in France or to another company within the same group;
- Temporarily hired by a firm based in France which is part of the same group as the employer.

In both cases, the candidate needs to provide evidence of a gross salary equal to 1.5 times the minimum wage. After a continuous secondment of 6 months in France, family members will be entitled to a *private and family life* permit allowing them to seek employment.

Employee on assignment card

Senior managers or high-level executives must be employed by a French company that is part of an international group. If he has a very responsible role or receives a gross monthly salary that is greater than or equal to 5,000€, he will be issued with a residence permit valid for a period of three years. The family can have a "visitor" residence permit which will allow the spouse to work.

Seasonal worker permit

It is for workers employed under a seasonal employment contract with a period of more than three months.

A temporary residence permit, valid for three years and renewable thereafter, allows carrying out seasonable work for a maximum of 6 months over a period of 12 consecutive months. This permit does not allow the family to join.

Scientific permit

Workers with a master's degree or equivalent can come to France to carry out research or teaching activities.

The candidate must prove his status as a researcher and the planned duration of his research work, and present a hosting agreement from an accredited French research institution or teaching facility.

The permit will be issued by the prefecture on the presentation of the required long-stay visa and the hosting agreement, endorsed by the French consulate in the country of origin.

Employment in France



Employees' Rights

The Labour Code, collective bargaining agreements, regulations and individual employment contracts govern relations between employers and employees.

For many years, France has provided for employee rights and protection. New laws will soon complete the already existing legislation.

Following is a list of the principal measures:

- It is a prerequisite that an employer declares new employees to the Social Security office.
- The employer must provide a work contract or a pay slip.
- Every newly hired employee is subject to an initial trial period varying from a few days to 3 months, depending on the position to be held in the company. During this period, the employer as well as the employee can break this work contract.
- When an employee of a French company wishes to leave, he must give prior notice. The notice can be a few days or up to 3 months.
- Once the trial period is over, an employer cannot lay off his employee without a real and serious reason. Otherwise, he will have to pay an indemnity to the dismissed employee.
- The salaried worker and the employer ensure mandatory Social Security coverage jointly. The coverage includes the state mandatory social security plan covering sickness, accident, life insurance, family allowance, and old age pension; the state mandatory unemployment plan; and a private mandatory retirement plan, including a supplementary pension plan, and a complementary retirement plan for executives. Additional non-compulsory

plans are possible, depending on the agreements between employers and employees.

- The French law forbids all forms of discrimination on the basis of race, creed, sex or colour.
- Work conditions are under governmental control, and the intent of the legislation is to define the rights and obligations of the employee and the employer.
- The work Inspection Bureau, the industrial Security and Hygiene Commissioner, and the "Médecine du travail" may operate controls regardless of the business activity.

Other important measures have been taken and are worth mentioning:

- Besides the French National Labour Market, there exists, for each market sector, a collective bargaining agreement which both employers and employees must abide by, and which defines the limitations on the relations between employer and employee.
- Since 1st January 2000, all employers with an average work force over 20 people apply legal work time of 35 hours per week. This legal work time will apply to the remaining employers on the 1st January 2002. Governmental grants are allocated to facilitate the application of the law.
- Overtime is due by the employer and is subject to a 10% to 50% increase on the salary base as agreed with the employer.
- An employee cannot be remunerated below the minimum legal salary requirement (S.M.I.C.), which is revised regularly.
- Every employee benefits from 5 weeks paid holidays per annum, which is the legal requirement, after one year of presence in a company. Certain business and industrial sectors offer additional benefits.

- Social Legislation on companies can also provide for optional or compulsory employee share taking in company performance, such as share taking on profits, company savings plan, and incentive bonuses.
- Employee share taking is calculated according to criteria defined by law.

Selling into France



Many businesses first sell into France after having set up a branch or company in the country (see also Chapter Place of Business). However, for many non-French businesses, the simplest way of conducting trade within France is to sell directly into France.

This is becoming increasingly significant in line with the growing volume of business conducted via the Internet.

The current French legal, and tax approach to electronic commerce is set out in Chapter E Business. This chapter considers the more conventional forms of selling - either directly into France or using a French sales agent or distributor.

Direct Selling From Abroad

Taxation issues

Direct selling into France can take place either through an overseas head office or via sales personnel based in France. If it is the intention to avoid exposure to French tax, then contractual arrangements should be made outside France from the overseas head office, without the use of sales staff in France. Such staff can create a taxable presence here.

Reference should always be made to any relevant tax treaty with France. France has a double tax treaty with most of the major industrial nations in the world and each treaty identifies the point at which the activities of an overseas business constitute a taxable presence in France.

In most of France's tax treaties there will be a charge to French tax where the overseas business maintains an office in France, or where a dependent agent concludes contracts on the business' behalf in France. Tax treaties also prescribe certain circumstances where (usually) no French tax arises.

Normally, if a company making supplies of services does not have a physical presence in France, then it is not liable to be registered.

Legal and contractual issues

The sale of goods and services into France necessarily involves two parties from different legal backgrounds. Consequently, as a first step, it will always be useful to state whether a contract is subject to French law or that of the seller's country of residence.

The points below need to be borne in mind when negotiating contracts of sale with French customers.

- The exact terms of the contract should be set out in writing and should include a statement that the contract only be considered valid when confirmed by the supplier in writing.
- A contract that is silent on VAT is deemed in France to be inclusive of VAT.
- The contract document will also set out the price to be charged or the mechanism for its calculation and should also detail the exact nature and characteristics of the goods or services being supplied.
- The seller's conditions of sale should be incorporated into every contract.
- The preceding comments are merely an outline of some of the more significant factors to be considered. Specific legal advice appropriate to individual circumstances should always be obtained.

Selling into France through a French-based Agent

Taxation issues

A French-based agent will typically fulfil the role of obtaining sales orders and passing them back to the overseas principal. An agent is therefore different in nature from a distributor who purchases and

resells goods on his own account. The agent could be an individual or a company and may be dependent on or independent of the overseas business.

A French-incorporated company or French branch of a non-resident company will be liable to French taxation on the profits earned in the country. In addition, an employee could constitute a taxable presence in France where his responsibilities entail concluding contracts here.

Where an independent French agent is being used, the France's double tax treaties typically provide that such an arrangement will not constitute a taxable presence in France for the overseas principal.

If a subsidiary company or a branch is the agent, then the transactions between French the enterprise and the non-resident parent should be on the basis of arm's length pricing.

For the France's attitude to "transfer pricing" see Chapter Taxation.

Legal and contractual issues

The precise terms of the contract with an agent can vary widely, but they will generally be subject to the Commercial Agents Act of 25 June 1991, which includes provision for compensation on termination.

Whilst the agency agreement can be informal, certain clauses are fairly common.

Legal advice is always recommended, but typical clauses are those that refer to the exact extent of the respective duties of both agent and principal, the territory for which the agent will be responsible and whether the agent is the sole agent in that territory.

It is advisable to include a clause in the contract indicating whether the agent can accept orders on behalf of the principal or whether such orders must be referred to the principal for acceptance.

Selling into France through a French-based Distributor

Taxation issues

A distributor differs from an agent in that a distributor actually acquires goods from the non-resident company and resells them in its own name. A distributor is therefore effectively a customer of the overseas business.

Where the distributor is set up as a separate company, this should not create a French tax exposure for the investing business.

However, many of the preceding remarks in relation to agents apply equally to distributors. For instance where a French branch of the overseas enterprise acts as a distributor, the branch will be taxed on its French profits.

The mark-up made by a French distributor needs to be reviewed carefully, i.e. the prices with overseas affiliates will need to be at a fair market value.

Legal and contractual issues

It is always recommended that the distribution agreement be drafted after taking appropriate legal advice in France. Agency agreement clauses defining territorial trading boundaries and a statement of respective responsibilities would also be expected.

Moreover, as the distributor route involves the sale of goods to the distributor, it may well be prudent from the overseas supplier's point of view, to consider clauses that govern the distributor's selling price and a reservation of title clause.

This prevents title to the goods passing to the distributor until the distributor has paid its supplier. If the distributor sells the goods in advance of this event, then the distributor is deemed to sell the

goods as agent for the supplier.

It should be noted that, although the goods are acquired by the distributor and sold on by him, the manufacturer, importer and supplier are still legally liable under French law for any damage or injury incurred as a result of the supply of the goods.

It is therefore advisable to consider appropriate insurance cover for any contingency.



Place of business

Many businesses intending to trade in France do so either through a branch of their foreign company or through a separate French company. From an overall legal perspective, a French company may be more desirable than a branch, because it can enable a foreign investor to avoid being exposed to claims arising in France.

The next sections will cover the main tax issues to be borne in mind when contemplating either of these routes. However it may be possible that a non-French business does not envisage that its scale of activities will be of sufficient size to amount to a branch, perhaps because it may operate in France merely as a warehousing function.

This concept of operating in France at a scale below branch level will be considered first.

"Place of business" in France

Earlier on, reference was made to the concept of "a place of business".

This exists when a foreign company establishes a presence in France but does not carry on any of its principal trade here. This should be contrasted with a branch where there is a management capability that includes the freedom to negotiate contracts with third parties.

Provided there is no element of trading being carried on in France, there should be no tax liability here (unless there are some other sources of income). In many cases, the French tax position will be further clarified under the terms of the relevant tax treaty. France has concluded a series of over 100 tax treaties which, in most cases, define the kind of presence that amounts to a "permanent establishment" and indicate the activities which fall outside this classification. Trading in France through a permanent establishment

will involve the taxation in France of profits attributable to the French presence.

Conducting activities in France, by way of a branch or dependent agent, will be considered a permanent establishment, whereas the mere carrying on of certain defined "passive" activities will fall outside the scope of taxation.

Certain sites or construction and installation projects may also give rise to a permanent establishment.

The operation of a warehousing function is therefore, of itself, unlikely to involve an exposure to French income and corporation tax, unless it is an integral part of the trade of the overseas company. The overseas company should seek professional advice to check whether its French activities will constitute a taxable presence.

This is particularly important, as the terms of tax treaties do vary.

Operating a Branch in France

The concept of a branch is more substantial than that of a place of business. It involves the operation of a management function at the French location and the ability of that function to deal with third parties.

A French branch will fall within normal French corporation tax regulations and in many respects is taxed in the same way as a French company (see Chapter Taxation). Accordingly, the French branch will be subject to French taxation on any trading income relating to its operations, whether that income arises in France or elsewhere. In this respect there is no difference between the operations of a French branch or a French company, but the post-corporation tax profits of a French branch of a foreign company are presumed to be distributed, and are subject to 25% withholding tax – unless the seat of effective management of the foreign company in an EU state or a double tax treaty allows the foreign company to

override this French rule.

Under French domestic law, French profits of a branch must be taxed at the highest rate of corporation tax. This rule does not apply if a tax treaty between France and the relevant foreign country contains a non-discrimination clause.

Reliance on this treaty article, where it exists, will be sufficient to ensure that the branch is not taxed less favourably than other French-based businesses.

The same principle applies under European Union law where a foreign company is resident in a member state of the EU.

If at a later date it is desired to change the status of the French branch to a French company, there are provisions in France tax legislation that facilitate this change.

French tax law enables various advantages to be obtained by French branches of foreign companies. These permit a French branch to surrender or receive trading losses to or from other French-based group companies and to transfer assets between a French branch and a French-resident group company with no immediate capital gains tax cost.

In addition, it is now possible for a French branch to claim double tax relief for foreign tax suffered on all relevant income and gains.

Operating through a French Company

Taxation of French companies

A French company will be French tax resident if it is incorporated here or if its place of central management and control is in France.

Many other countries rely on a definition of tax residence based on the place of effective management and therefore it is not common for a French company to be a resident of more than one country.

Most of France's tax treaties cover this by having a series of "tie-breaker" clauses to resolve the position.

France taxation legislation treats French public limited companies and private limited companies in exactly the same way. Both are subject to French tax on the profit their business realised in France.

The starting point for assessing a company's annual tax liability is the company's profit or loss, as shown in its published financial statements. However, adjustments are made to this figure to arrive at a value of a company's taxable profits.

The most significant adjustment is the replacement of the depreciation charged in the company's accounts with the tax administration's prescribed rates of allowances for investment in qualifying capital expenditure.

The rates of tax allowance vary depending on the type of expenditure and the use to which it is assigned.

Other routine tax adjustments to a company's reported profits are to disallow any expenditure on entertaining or hospitality and any general reserves against stock, work in progress and irrecoverable debts.

The French tax authorities reserve the right to raise enquiry questions in connection with the tax calculations or return. Specialist professional advice may well be required in this eventuality.

VAT and customs

It is necessary to register a business for VAT purposes once its taxable supplies reach certain thresholds. Normally, quarterly returns are required. More details of the VAT system can be found in Chapter Taxation.

Transfer pricing and associated entities

Increasingly, the French tax authorities are enquiring into transactions between French companies and foreign associates. They are keen to ensure that non-arm's length relationships are not used to divert taxable profits out of France through interest payments, management charges, royalties, and profits on goods and services sold between the connected parties. It is therefore important to properly document transactions between related parties and to justify the method by which the prices have been calculated.

Care needs to be exercised to ensure that the transfer prices charged are calculated on an arm's length basis. If the French tax authorities believe that the French business has suffered a reduction in its profits, as a result of entering into non-arm's length transactions with connected parties, they will amend the business' taxable profits accordingly.

As mentioned above, French businesses are now required to maintain contemporaneous records that justify the transfer prices they have used and that show them to be on an arm's length basis.

A French subsidiary will also need to be mindful of difficulties that may arise, if it chooses to make interest payments to foreign group company. The French tax authorities may restrict a tax deduction for the interest payment where there is more loan capital than share capital financing the subsidiary.

It is important to seek professional advice on this issue.



E-business

The significant increase in e-commerce has seen France make a considerable investment at the business and government level, to put the necessary technological infrastructure in place.

Business Issues

E-commerce has given businesses increased autonomy and flexibility as to where to base their activities. It has changed traditional ways of doing business and in so doing raised new tax issues and opportunities.

Businesses are rapidly adapting their strategies for e-commerce and updating their web sites to take account of changes in the marketplace.

As far as new business is concerned, opportunities exist to raise finance on the Alternative Investment Market (AIM) and other markets.

Every business needs to be aware of legal developments affecting e-commerce, for example changes to contract and intellectual property law, as well as changes in tax law.

VAT Issues

VAT often represents a large proportion of a product's selling price and plays a major part in the pricing considerations of retail suppliers. The principal issues arising in relation to VAT are related to the place of supply of goods and services and in part to whether the supply is of goods or services.

For the purpose of VAT, e-commerce can be divided into direct and indirect e-commerce.

Direct e-commerce is concerned with the supply of tangible goods and is comparable to shopping by catalogue. In this case, the

Internet only provides a facility through which a prospective customer can access the vendor's website. When a transaction takes place, the supply is delivered in a conventional way, e.g.; by mail. Because this transaction is very similar to mail order shopping, it does not entail any new or additional VAT complications.

The rules concerning selling to non-business customers in other member states still apply; therefore, the supplier of goods from one member state is obliged to register for VAT in the member state where he has customers once certain thresholds are reached. Additionally, the legislation governing imports and exports to and from the EU also applies to goods ordered through the Internet.

Indirect e-commerce encompasses transactions where the Internet provides the means of delivery of intangible property, or digitized products. Examples include software and music. These are treated as services when delivered over the Internet and VAT rules applicable to services govern the status of these transactions. This can lead to inconsistencies; for example, a supply can be reduced-rated when in the form of goods (e.g. books) but standard rated when delivered as a service.

Further anomalies arise when a non-EU supplier delivers a digitized product to an EU customer. Currently there is no mechanism for taxing the supply of services from outside the EU to a non-business consumer within the EU. This means that non-EU suppliers do not need to account for VAT on such transactions.

Direct Tax Issues

In the field of direct taxation the main issues are:

- Whether a web site on a server located in France represents a taxable presence here. The French Government has stated that a server may not in itself give rise to a taxable permanent establishment. In practice, the nature of activities

in France will determine whether there is a French tax presence here or not.

- To what extent profits are attributable to e-business activities where there are related foreign parties, i.e. transfer pricing issues.
- Whether a payment represents a royalty in relation to the customer utilizes the products for his own purposes and is not exploiting it, then the payment would not normally represent a royalty, i.e. there would not be a requirement to withhold tax.

Ceasing to have a presence in France



An investor may cease to have a business presence in France in a variety of ways. This could arise through sale, insolvency, or migration. Each will be considered in turn before we touch on the implications for individuals leaving France.

Disposal of a Business or Subsidiary

The disposal of French business will involve various tax, commercial and legal issues.

Tax Considerations on Disposal of a Business

Any capital profit on the disposal of a French business will only be taxable in France in the hands of the seller, if the seller is a French resident or has a French presence through a branch or agency. If this is not the situation, then the seller will only need to consider his own domestic tax laws in relation to the sale.

A French-resident seller may suffer French tax on the capital profit arising on the sale of shares in a company. Where the business is unincorporated, capital profits can arise on such assets as land and buildings, goodwill, intellectual property or equipment if sold for more than cost.

Legal and Commercial Considerations on the Disposal of a Business

Legal agreements drafted to cover the sale of a business can be very complicated and typically include provisions for indemnifying the purchaser, should any unforeseen liabilities arise.

It is therefore vitally important, when selling a business in France that specialised legal, accounting and taxation advice is sought.

Dissolution & Liquidation of Companies

The company's shareholders may vote upon its dissolution using the quorum and majority required to amend its articles. Once a resolution dissolving the company is passed, the liquidation of the company (i.e. the sale of its assets and distribution of its funds) must follow.

Legal formalities must be followed when dissolving a company.

Since management's authority ceases once the extraordinary meeting decides to dissolve the company, special liquidators must be nominated to liquidate the company.

These individuals will wind up the business; sell the company's assets, and distribute any balance to the company's shareholders.

Once the liquidators have finished their job, they will present an official accounting to a shareholder's meeting, which will approve the accounts.

Once the accounts are approved, the liquidator may petition the clerk of the commercial court to strike the company's entry from the commercial registry.

Once the entry is stricken, the company as a juridical person ceases to exist.

The company will have to produce its final tax return within 60 days of the approval of the closing accounts

Appendix



Treaty and non-treaty withholding taxes

Local chambers of commerce & industry in France

Other useful contacts for investors in France

Treaty and non treaty withholding taxes

	Dividends		
	A	B	C
	Individuals and non parent companies(1) %	Parent companies (2) %	Shareholding required to be a parent (2) %
Non-Treaty Countries	25	25	—
Treaty Countries:			
Algeria	15	5	10
Albania	15	5	25
Argentina	15	15	—
Armenia	15	5	10
Australia	15	15	-
Austria	15	0	10
Azerbaijan	10	10	—
Bahrain	0	0	—
Bangladesh	15	10	10
Belgium	15	10	10
Belarus	15	15	—
Benin	— (5)	— (5)	—
Bolivia	15	15	—
Botswana	12	5	25
Brazil	15	15	—
Bulgaria	15	5	15
Burkina Faso	— (5)	— (5)	—
Cameroon	15	15	—
Canada (except Quebec)	15	5	10
Central African Republic	— (5)	— (5)	—
Chile	15	15	—
China	10	10	—
Congo	20	15	10
Croatia	15	0	10
Cyprus	15	10	10
Czech Republic	10	0	25
Denmark	0	0	—
Ecuador	15	15	—
Egypt	0	0	10
Estonia	15	5	10
Finland	15	0	10
French Polynesia	— (5)	— (5)	—
Gabon	— (5)	— (5)	—
Georgia	15	15	—
Germany	15/0	0	10
Ghana	15	5	10

Treaty and non treaty withholding taxes

	Dividends		
	A	B	C
	Individuals and non parent companies(1) %	Parent companies (2) %	Shareholding required to be a parent (2) %
Greece	– (5)	– (5)	–
Hungary	15	5	25
Iceland	15	5	10
India	10	10	–
Indonesia	15	10	25
Iran	20	15	25
Ireland	15	5	50
Israel	15	5	10
Italy	15	5	10
Ivory Coast	15	15	–
Jamaica	15	10	10
Japan	15	5/0	15
Jordan	15	5	10
Kazakhstan	15	5	10
Korea	15	10	10
Kuwait	0	0	–
Kyrgyzstan	15	15	–
Latvia	15	5	10
Lebanon	0	0	–
Lithuania	15	5	10
Luxembourg	15	5	25
Macedonia	15	0	10
Madagascar	25	15	25
Malawi	– (5)	10	50
Malaysia	15	5	10
Mali	– (5)	– (5)	–
Malta	15	5	10
Mauritania	– (5)	– (5)	–
Mauritius	15	5	10
Mayotte	– (5)	– (5)	–
Mexico	15	0/5	10/50
Moldova	15	15	–
Monaco	– (5)	– (5)	–
Mongolia	15	5	10
Morocco	15/0	15/0	–
Namibia	15	5	10
Netherlands	15	5	25
New Caledonia	15	5	–
New Zealand	15	15	–
Niger	– (5)	– (5)	–

Treaty and non treaty withholding taxes

	Dividends		
	A	B	C
	Individuals and non parent companies(1) %	Parent companies (2) %	Shareholding required to be a parent (2) %
Nigeria	15	12.5	10
Norway	15	0	10
Oman	0	0	—
Pakistan	15	10	10
Philippines	15	10	10
Poland	15	5	10
Portugal	15	15	—
Qatar	0	0	—
Quebec	15	5	10
Romania	10	10	—
Russia	15	05/10	—
St. Pierre & Miquelon	15/5	5	—
Saudi Arabia	0	0	—
Senegal	15	15	—
Singapore	15	10	10
Slovak Republic	10	10	—
Slovenia	15	5	25
South Africa	15	5	10
Spain	15	0	10
Sri Lanka	— (5)	— (5)	—
Sweden	15	0	10
Switzerland	15/25	0/15/25	10
Tajikistan	15	15	—
Thailand	— (5)	20/15	25
Togo	— (5)	— (5)	—
Trinidad and Tobago	15	10	10
Tunisia	— (5)	— (5)	—
Turkey	20	15	10
Turkmenistan	15	15	—
Ukraine	15	0/5	10
United Arab Emirates	0	0	—
United Kingdom	15	5	10
United States	15	5	10
Uzbekistan	10	15	10
Venezuela	15	0	10
Vietnam	15	5	10
Zambia	— (5)	10	50
Zimbabwe	15	10	25

Treaty and non treaty withholding taxes

	D		E
	Debt Instruments other than borrowing (3)	Royalties	Distributions tax levied on profits of permanent establishments (4)
	%	%	%
Non-Treaty Countries	16	33.33	25
Treaty Countries:			
Algeria	10	5/10	—
Albania	10	5	5
Armenia	10	5/10	5
Argentina	20	18	5
Australia	10	10	10
Austria	0	0	0
Azerbaijan	10	5/10	5
Bahrain	0	0	25
Bangladesh	10	10	15
Belgium	15	0	0/5
Belarus	10	0	25
Benin	— (5)	0	25
Bolivia	15	15	0
Botswana	10	10	5
Brazil	15/10	10/15/25	10
Bulgaria	0	5	5
Burkina Faso	— (5)	0	25
Cameroon	15	15	15
Canada (except Quebec)	10	10/0	5
Central African Republic	— (5)	0	25
Chile	5/15	5/10	—
China	10	10	0
Congo	0	15	15
Croatia	0	0	—
Cyprus	10	0	10
Czech Republic	0	0/5/10	6.66
Denmark	0	0	0/25
Ecuador	10/15	15	15
Egypt	15	15	5
Estonia	0/10	5/10	0
Finland	0/10	0	0/10
French Polynesia	0	— (5)	25
Gabon	— (5)	10	25
Georgia	10	0	25
Germany	0	0	0
Ghana	10	10	0

Treaty and non treaty withholding taxes

	D		E
	Debt Instruments other than borrowing (3)	Royalties	Distributions tax levied on profits of permanent establishments (4)
	%	%	%
Greece	0	5	0/25
Hungary	0	0	5
Iceland	0	0	5
India	10/15	10/20	0
Indonesia	15/10	10	10
Iran	0	10	10
Ireland	0	0	0/25
Israel	5/10	10	5/10
Italy	10	5	0
Ivory Coast	15	10	0
Jamaica	10	10	10
Japan	10	10	0
Jordan	15	5/15/25	5
Kazakhstan	10	10	5
Korea	10	10	5
Kuwait	0	0	25
Kyrgyzstan	10	0	25
Latvia	10	5/10	0
Lebanon	0	– (5)	25
Lithuania	10	5/10	0
Luxembourg	0	0	0/5
Macedonia	0	0	25
Madagascar	15	10/15	25
Malawi	– (5)	0	10
Malaysia	15	10/ – (5)	10
Mali	– (5)	– (5)	25
Malta	15	5	10
Mauritania	– (5)	– (5)	25
Mauritius	– (5)	15/0	15
Mayotte	– (5)	0	25
Mexico	0/5/10	0/10	0
Moldova	10	0	25
Monaco	– (5)	– (5)	25
Mongolia	10	5	0
Morocco	10/15	5/10	0
Namibia	10	0/10	0
Netherlands	10	0	0
New Caledonia	0	0/10	10

Treaty and non treaty withholding taxes

	D		E
	Debt Instruments other than borrowing (3)	Royalties	Distributions tax levied on profits of permanent establishments (4)
	%	%	%
New Zealand	10	10	10
Niger	– (5)	0	25
Nigeria	12.5	12.5	0
Norway	0	0	0
Oman	0	0	25
Pakistan	10	10	0
Philippines	15	15	10
Poland	0	0/10	25
Portugal	12	5	0/15
Qatar	0	0	25
Quebec	10	0	5
Romania	10	10	10
Russia	0	0	0
St. Pierre & Miquelon	0	0/10	10
Saudi Arabia	0	0	25
Senegal	15	0/15	0
Serbia/Montenegro	0	0	25
Singapore	10	0/– (5)	5
Slovak Republic	0	0/5	6.66
Slovenia (not in force)	0	0	6.66
South Africa	0	0	0
Spain	10	0/5	0
Sri Lanka	10	0/10	25
Sweden	0	0	0
Switzerland	0	5	0
Tajikistan	10	0	25
Thailand	3/10	0/5/15	25
Togo	– (5)	0	25
Trinidad and Tobago	10	0/10	10
Tunisia	12	5/15/20	25
Turkey	15	10	7.5
Turkmenistan	10	0	25
Ukraine	2/10	0/10	25
United Arab Emirates	0	0	0
United Kingdom	0	0	0
United States	0	0/5	5
Uzbekistan	0/5	0	25
Venezuela	5	5	0

Treaty and non treaty withholding taxes

	D		E
	Debt Instruments other than borrowing (3)	Royalties	Distributions tax levied on profits of permanent establishments (4)
	%	%	%
Vietnam	0	10	0
Zambia	– (5)	0	10
Zimbabwe	10	10	0

- 1 The rates specified apply to individuals and companies who have inadequate control to be classified as parents.
- 2 The rate specified apply to foreign parent companies. The level of control necessary to be classified a parent varies from treaty to treaty. Accordingly, the relevant treaty should be consulted. Where no percentage is indicated, either no minimum shareholding is required or the relevant treaty does not reduce the withholding tax rate below the standard of 25%.

With effect from 1992, no withholding tax is imposed on dividends paid by a French company liable to corporate tax when the recipient is an EU parent company. The requirements for this rule are as follows:

- (a) The recipient has held a minimum of 15% from 2007 to 2009 (10% as from 1 January 2009) of the capital of the distributing company directly and continuously for at least two years or will give an undertaking to hold at least 15% from 2007 to 2009 (10% as from 1 January 2009) of the shares of the distributing company for at least two years.
 - (b) The recipient is the effective beneficiary of the dividends.
 - (c) The recipient has its effective seat of management in an EU State and is not deemed to be resident outside the EU under an applicable tax treaty.
 - (d) The recipient has one of the legal forms dictated under the Directive.
 - (e) The recipient is subject to corporate income tax in the Member State where it has its effective seat of management.
 - (f) The recipient company must not have the right, under any double tax treaty, to a payment from the French Treasury of an amount greater than the withholding tax reserved by that treaty.
- 3 Interest paid by a French company on foreign borrowings is exempt from withholding tax. For other debts, the rate varies from 0% to 16% subject to tax treaty reduction. No withholding tax applies on interest paid by a French company or a French permanent establishment liable to corporate tax when

the recipient is an EU parent company which has held a minimum of 25% of the shares of the company paying the interest for at least two years.

- 4 The taxable profits of permanent establishments in France are automatically subject to withholding tax unless specified conditions are met. The rate of tax is 25% or the reduced rate specified in the treaty – shown as 5 in the tables above.
- 5 There is no withholding tax rate specified in the treaty; the domestic rate applies.

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