

# France Country Profile

EU Tax Centre

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## Key tax factors for efficient cross-border business and investment involving France

**EU Member State** Yes.

**Double Tax Treaties** With the following countries, territories and jurisdictions:

Albania	Chile	India	Mali	Qatar	Syria
Algeria	China	Indonesia	Malta	Quebec	Taiwan
Andorra	Colombia <sup>(a)</sup>	Iran	Mauritania	Romania	Tajikistan
Argentina	Congo	Ireland	Mauritius	Russia	Thailand
Armenia	Croatia	Israel	Mexico	Saudi	Togo
Australia	Cyprus	Italy	Monaco	Arabia	Trinidad &
Austria	Czech Rep.	Ivory Coast	Mongolia	Senegal	Tobago
Azerbaijan	Ecuador	Jamaica	Montenegro	Serbia	Tunisia
Bahrain	Egypt	Japan	Morocco	Singapore	Turkey
Bangladesh	Estonia	Jordan	Namibia	Slovakia	Turkmenistan
Belarus	Ethiopia	Kazakhstan	Netherlands	Slovenia	UAE
Belgium	Finland	Kenya	New Caledonia	South	Ukraine
Benin	French	Kosovo	New Zealand	Africa	UK
Bolivia	Polynesia	Kyrgyzstan	Niger	Spain	US
Bosnia &	Gabon	Rep. of Korea	Nigeria	Sri Lanka	Uzbekistan
Herzegovina	Georgia	Kuwait	North	St. Martin	Venezuela
Botswana	Germany	Latvia	Macedonia	St. Pierre &	Vietnam
Brazil	Ghana	Lebanon	Norway	Miquelon	Zambia
Bulgaria	Greece	Lithuania	Oman	Sweden	Zimbabwe
Burkina Faso	Guinea	Libya	Pakistan	Switzerland	
Cameroon	Hong Kong SAR	Luxembourg	Panama		
Canada	Hungary	Madagascar	Philippines		
Central	Iceland	Malawi	Poland		
African Rep.		Malaysia	Portugal		

Note: (a) Treaty signed but not yet entered into force

### Most important forms of doing business

Société Anonyme (SA), i.e., a corporation.

Société par Actions Simplifiée (SAS), i.e., a simplified joint-stock company.

<b>Legal entity capital requirements</b>	No capital requirements for establishing a SAS. However, capital requirements apply to a SA (EUR 37,000).
<b>Residence and tax system</b>	Test of residence of a company: official registered head office and/or effective place of business and management. French resident companies are taxed on French source income only (territorial system). Specific rules for partnerships.
<b>Compliance requirements for CIT purposes</b>	Fiscal year is the civil year, but companies are free to have a different financial year. Companies subject to corporate income tax (CIT) must file a tax return within three months of fiscal year-end or by the second business day following May 1 if the company's fiscal year ends on December 31.
<b>Corporate Income Tax rate</b>	<p>The French CIT rate is progressively reduced from 33.33 percent to 25 percent. The schedule for the phased-in application of the progressive reduction should be as follows:</p> <ul style="list-style-type: none"> <li>- For financial years commencing as of January 1, 2021, the standard rate of CIT will be reduced to 26.5 percent for all taxable profits. A rate of 27.5 percent would apply on all profits for companies with a turnover of at least EUR 250m.</li> <li>- For financial years commencing as of January 1, 2022, the standard rate of CIT would be reduced to 25 percent.</li> </ul> <p>A reduced rate of 15 percent on profits up to EUR 38,120 may apply to small and medium-sized enterprises under certain conditions.</p> <p>Social surcharges apply to large companies whose CIT exceeds EUR 763,000. The surcharge of 3.3 percent is levied on the part of the CIT that exceeds EUR 763,000.</p> <p>As from January 1, 2019, a 10 percent tax rate applies to the net income derived from the licensing and sub-licensing of qualifying patents and to the net gains derived from the transfer, to non-related entities, of qualifying patents, provided that they have not been acquired less than two years before. The net income and the net gains are determined after the deduction of research and development (R&amp;D) costs and after the application of a "nexus" ratio comparing the qualifying expenses to the total expenses. The qualifying expenses are the R&amp;D expenses incurred for the creation and the development of the intangible asset by the taxpayer himself or by non-related entities. The total expenses are the qualifying expenses and the expenses incurred by related entities for the creation and the development of the intangible asset. This regime is applicable upon election.</p>

## **Withholding tax rates**   [On dividends paid to non-resident companies](#)

Standard CIT rate (i.e. 26.5 percent for FY 2021) unless a lower rate under application of a double tax treaty (DTT) applies. A rate of 0 percent may apply to dividends paid to qualifying EU/EEA parent companies as well as to qualifying collective investment vehicles. A reduced rate of 15 percent applies to non-profit organizations.

As from 2021 the applicable rate should develop as follows:

- 2021: 26.5 percent;
- 2022: 25 percent.

A 75 percent rate applies for dividends paid to non-cooperative jurisdictions (unless justification is provided).

### [On interest paid to non-resident companies](#)

No withholding tax (WHT) but 75 percent for interest paid to non-cooperative jurisdictions (unless justification is provided).

### [On patent royalties and certain copyright royalties paid to non-resident companies](#)

Standard CIT rate (i.e. 26.5 percent for FY 2021) unless a lower rate applies under a DTT. An exemption may apply to royalties paid to qualifying EU companies under the Interest and Royalties Directive.

As from 2021 the applicable rate should develop as follows:

- 2021: 26.5 percent;
- 2022: 25 percent.

A rate of 75 percent is applicable for royalties paid to non-cooperative jurisdictions (unless justification is provided).

### [On fees for technical services](#)

As from 2021 the applicable rate should develop as follows:

- 2021: 26.5 percent;
- 2022: 25 percent.

A rate of 75 percent is applicable for fees for technical services paid to non-cooperative jurisdictions (unless justification is provided).

### [On other payments](#)

15 percent on artistic income. WHT on wages under certain conditions (various rates apply).

A rate of 75 percent is applicable for artistic income paid to non-cooperative jurisdictions (unless justification is provided).

### [Branch tax](#)

As from 2021, the domestic branch WHT will develop as follows:

- 2021: 26.5 percent;
- 2022: 25 percent.

Subject to conditions, there is no branch WHT within the EU and it can be reimbursed or partially reimbursed.

A rate of 75 percent is applicable if the non-resident company is located in a non-cooperative jurisdiction.

## Holding rules

### Dividend received from resident/non-resident subsidiaries

Exemption method (95 percent or 99 percent subject to specific conditions):

- participation requirement: 5 percent of the share capital for shares with both voting and financial rights;
- minimum holding period: two years;
- taxation requirement: subject-to-tax requirement.

The General Anti-Avoidance rules apply to limit the benefit of the participation exemption regime in case of non-genuine scheme implemented in order to obtain a tax advantage that goes against the object or purpose of the tax law. Dividends received from companies located in non-cooperative countries cannot benefit from the participation exemption (unless justification is provided).

### Capital gains obtained from resident/non-resident subsidiaries

Generally subject to standard tax rate. Reduced rates apply to specific gains:

- an 88 percent exemption applies to gains on the sale of substantial shareholdings held for more than 2 years (except if based in non-cooperative jurisdictions - unless justification is provided);
- a 19 percent tax rate applies, subject to conditions, on capital gains on the disposal of shares in listed real estate companies.

## Tax losses

Losses may be carried forward indefinitely. However, the amount is limited to the first EUR 1,000,000 of profits and 50 percent of the profits in excess of EUR 1,000,000.

Corporate taxpayers also have the option, with certain restrictions, to carry losses back for 1 year to set them off against the previous year's profits up to EUR 1,000,000, in which case they are entitled to a tax credit. The tax credit may be used during the following 5 years. If it is not used within the 5 years, the tax credit may be refunded in the sixth year.

## Tax consolidation rules/Group relief rules

Yes, the income of a group of companies may be consolidated. Under the tax group regime (*intégration fiscale*), the income and losses of resident companies within a 95 percent group may be aggregated and taxed in the hands of the parent company of the group. Horizontal tax consolidation is possible under certain conditions.

<b>Registration duties</b>	Fixed (from EUR 125) or proportional (max. 5 percent).
<b>Transfer duties</b>	<p><b>On the transfer of shares</b></p> <p>The transfer of stocks is subject to the financial transactions tax (0.3 percent) or transfer duties (0.1 percent with, under certain conditions, possible exemptions for transfers between related companies). The transfer of shares is subject to transfer duties of 3 percent beyond a tax basis of EUR 23,000. The transfer of shares in real estate companies is subject to transfer duties at 5 percent.</p> <p><b>On the transfer of land and buildings</b></p> <p>5.09 percent (+ notary fees). Possibility for district councils to increase to 5.80665 percent indefinitely as from March 1, 2016. A 0.6 percent rate applies on sales of offices within the Ile-de-France.</p> <p><b>Stamp duties</b></p> <p>Many of the stamp duties relating to simple company's life acts have been repealed as from 2019.</p> <p><b>Real estate taxes</b></p> <p>Yes.</p>
<b>Controlled Foreign Company rules</b>	Profits made by a controlled foreign entity (i.e. 50 percent held subsidiary or 5 percent if French entities jointly hold more than 50 percent) or a permanent establishment subject to a favorable tax regime in its local jurisdiction are subject to tax in France. A safe harbor clause may apply under specific conditions (notably, within the EU).
<b>Transfer pricing rules</b>	<p><b>General transfer pricing rules</b></p> <p>Yes, transfer pricing rules exist and supporting documentation and tax returns are required. Penalties apply if documentation is not available.</p> <p>Services, interest and royalties paid to a recipient established in a tax shelter are not tax deductible unless the paying entity proves that such payments relate to genuine transactions and that they are charged at arm's length.</p> <p><b>Documentation requirement</b></p> <p>Yes: "light" transfer pricing documentation and a country-by-country report must be filed every year, plus possibility for the administration to require information on foreign rulings, consolidated accounts, and cost accounting.</p>
<b>Thin capitalization rules/Interest Limitation rules</b>	<p>Yes.</p> <p>As from January 1, 2019, new rules limiting the deductibility of net financial expenses have been introduced.</p>

A general limitation on the tax deductibility of net financial expenses (tax deductibility of net financial expenses may be limited to the highest between EUR 3 million and 30 percent of the company's adjusted EBITDA (earnings before interest, tax, depreciation and amortization); furthermore, an additional deduction of 75 percent of the non-deductible net financial charges under the above-mentioned rules is available when the equity/assets ratio determined at the level of the company is equal to or higher than the same ratio computed at the level of the consolidated group (as determined under accounting consolidation rules).

If the intragroup debt/equity ratio of the company exceeds 1.5, the amount of the deductible financial charges would be calculated as follows.

- The general limitation of the greater of EUR 3 million or 30 percent of the company's adjusted EBITDA would be applied to the financial charges corresponding to the external debt plus the portion of the intragroup debt up to 1.5 of the equity.
- A reduced limitation of EUR 1 million or 10 percent of the adjusted EBITDA, whichever is greater, would be applied to the remaining part of the financial charges.

The above thin capitalization restriction will not apply if the company is able to demonstrate that its debt/equity ratio is at least equal to (or lower by less than 2 percentage points than) the same ratio computed at the level of the consolidated group (as determined under accounting consolidation rules).

All of these measures would be applicable at the level of the company subject to corporate tax on a stand-alone basis, or directly at the tax group level when the company is part of a group. A specific anti-abuse applies to the deduction of financial cost relating to the acquisition of a company becoming a member of a tax consolidated group (*Charasse* amendment).

#### **General Anti-Avoidance rules (GAAR)**

Yes. The French tax authorities are entitled to make tax reassessments based on abuse of legal provisions (fictitious or exclusively/mainly tax-driven transactions).

GAAR according to the Anti-Tax Avoidance Directive (ATAD) have been introduced by the finance bill for 2019.

As from January 1, 2019, non-genuine schemes put in place with the main objective, or with one of its main objectives, being to obtain a tax advantage that goes against the object or purpose of the applicable tax law can be ignored by the tax authorities. An arrangement is defined as non-genuine if it is not put in place for valid commercial reasons that reflect the underlying economic reality.

#### **Specific Anti-Avoidance rules/Anti-Treaty Shopping Provisions/Anti-Hybrid rules**

Yes. Abnormal act of management theory (transaction depriving the enterprise from revenues it should have normally received).

Specific rules apply to payments/transactions with non-cooperative jurisdictions.

SAARs according to the amended Parent-Subsidiary Directive have been introduced.

As from January 1, 2020, Articles implement the EU directive “ATAD 2” on hybrid mismatches which aims at neutralizing the effects of arrangements that exploit differences in the tax treatment of an entity or instrument under the laws of two or more countries resulting in a deduction without inclusion or in a double deduction without compensation of this mismatch effect by a dual inclusion. The neutralization of the effect of the arrangement generally results in the denial of the tax deduction of the expense incurred in France. Safe harbor clauses apply under certain conditions.

**Advance Ruling system**

Yes.

**IP / R&D incentives**

Enterprises conducting fundamental or technical research in France or abroad may qualify for a very favorable R&D tax credit under certain conditions.

The licensing and transfer of patents are favorably treated (upon election: reduced 10 percent rate on the net proceeds determined after deduction of R&D costs and the application of the “nexus” ratio).

**Other incentives**

Yes.

**VAT**

The standard rate is 20 percent, and the reduced rates are 10, 5.5 and 2.1 percent (specific rules apply within the Overseas territories - DOM, and Corsica).

**Other relevant points of attention**

File of Accounting Entries (FAE): companies keeping their accounting in computerized systems must be able to submit their accounting records in a dematerialized format, in the event of a tax audit. The files must be submitted at the start of the audit process. Failure to submit the FAE is subject to a fixed fine of EUR 5,000 or 10 percent of the amount reassessed if higher.

Reliable Audit Trail: any invoice sent or received in any other format than by a format certified by the French Tax Authorities or a compliant electronic signature constitutes an original invoice, provided there is a reliable and documented audit trail. Therefore, for invoicing methods requiring a reliable audit trail, taxpayers must have documentation describing the nature of the controls carried out, the persons in charge of such controls and their respective tasks. It is necessary to be able to demonstrate to the French Tax Authorities that the information contained in the invoice matches all the other information related to the transaction.

This obligation to establish a reliable and documented audit trail, secured through controls, concerns both purchase and sale invoices. A reliable and documented audit trail must therefore be set up for the invoicing process. This obligation is applicable to all invoices received or issued via email, pdf, downloaded on internet and even to paper invoices.

Failure to produce and keep a reliable audit trail can entail the following tax consequences:

- rejection of input VAT deduction (as original documentation would be considered as missing);
- rejection of sales invoices: i.e. the French Tax Authorities could consider that the sales invoices are not valid, resulting in a fine of 50 percent of the amount of the sale invoices, reduced to 5 percent if the transactions are correctly accounted for (note that the French Constitutional Council ruled that this fine was unconstitutional. The fine will be repealed and probably replaced by a constitutional one on December 31, 2021).

### **Mandatory Disclosure Rules Updates**

For country specific information and updates on the EU Mandatory Disclosure Rules please visit KPMG's EU Tax Centre's [MDR Updates page](#).

Source: French tax law and local tax administration guidelines, updated 2021.



## Contact us

**Cédric PHILIBERT**

**KPMG Avocats**

**T** +33 1 55 68 49 40

**E** [cedricphilibert@kpmgavocats.fr](mailto:cedricphilibert@kpmgavocats.fr)

**Marie-Pierre Hôo**

**KPMG Avocats**

**T** +33 1 55 68 49 09

**E** [mhoo@kpmgavocats.fr](mailto:mhoo@kpmgavocats.fr)

**kpmg.com**



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