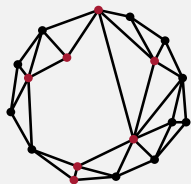


WEBINAR CZECHTRADE

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HOW TO ESTABLISH A BUSINESS IN FRANCE

In accordance with French corporate and tax Law



C O N S T E L I U S

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FRENCH CORPORATE LAW

- Which corporate form to choose for setting up an online business in France?
- How to select the most appropriate structure to start an online business in France?

You can start by creating a branch and when your business in France grows, you can switch to a subsidiary.

RECOMMENDED ENTITIES TO EXPAND YOUR BUSINESS IN FRANCE

BRANCH

- The branch has no legal autonomy, no legal personality of its own, has no assets distinct from those of the parent company, no property of its own, no separate name, no capital, etc.
- The parent company is financially responsible for all its assets (national and foreign) and for the commitments made within the framework of the branch.
- The branch is included in the pledge of the parent company's creditors since it forms part of the parent company's assets and liabilities.
- Its profits can be taxed in the country of establishment and according to its own rules.
- Since the agreement of 28 April 2008, the branches are not subject to a second taxation in the country of origin, if the latter has concluded a bilateral agreement with the country of establishment to avoid such double taxation.
- Unlike a subsidiary, a branch is considered to be a non-resident of the country in which it is established for tax purposes.
- The branch will have to keep its own accounts, even though it does not have specific assets separated from the company to which it is attached.
- The branch has to be registered in the "Commercial Court Registry".
- Quick (a few weeks!) and less formal process of creation.
- However: if the branch faces financial difficulties, it will immediately affect the parent company.

SUBSIDIARY

- Also called a "daughter company"
- Has a separate legal personality controlled by the parent company
- Longer and more complex process of creation
- An independent structure, entirely considered as a French company
- You can choose any time of business structure (e.g. Limited Liability Company, Simplified Joint Stock Company...)
- Parent-subsidiary (tax) regime and application of the Parent-Subsidiary Directive: distribution of dividends to the parent company can be exempted from tax

OTHER WAYS TO EXPAND YOUR BUSINESS

LIAISON/REPRESENTATIVE OFFICE

- No commercial or industrial activity: usually used for marketing purposes or to study the French market before expending a business there
- It should not be used as a permanent establishment
- No corporate tax nor VAT
- Does not have to keep accounting records

TAX REPRESENTATIVE

- Recommended to appoint a tax representative in your branch
- His job is to track, register and then submit your VAT return to the French *Administration Fiscale*;
- How to appoint a tax representative? With a power of attorney sent to the French *Administration fiscale*

THE FRENCH AGENCY FOR INTERNATIONAL INVESTMENT(AFII)

- Network of correspondents in more than 22 countries informing the entrepreneurs about the regulations applicable to the proposed investment
- Correspondents help entrepreneurs identify the financial advantages of the French territory
- AFII makes its partners available to foreign investors who help set up and promote the emergence of new activities

FRENCH STATE AID TO FOREIGN COMPANIES ONLINE

EUROPEAN AID

In the EU countries, the payment of public aid is regulated by the European Commission.

Ceilings are set according to the percentage of amounts invested.

The aid shall be granted by the State, the region and agglomerations in accordance with criteria laid down:

- The size of the company
- The business sector of the company
- The nature of the project: creation, extension, modernization
- Number of jobs created over 3 years

- Grants: non-refundable if jobs are retained for at least 5 years Prêts bonifiés
- Tax exemptions
- Repayable advances

FRENCH AID

- Aid for training: part of the training costs covered
- Aid for the development and industrialization of new products
- Revitalization Funds

CORPORATE STRUCTURES

Unlimited joint liability companies

Limited liability companies

Civil Company

(Société civile)

Incorporated Commercial Partnership

(SNC)

Limited Liability Company

(SARL)

Simplified Joint Stock Company

(SAS)

Joint Stock company
close to the Public limited company

(SA)

Limited Partnership by Shares

(SCA)

European Company

(SE)

Limited Liability Sole Trader

(EURL)

“monistic”

“dualistic”

A comparison of the different structures

Limited Liability Company

- SRO
- No minimum capital stock
- Shareholders : min 1 and max 100
- Strict and formal bylaws
- One or multiple managers ("cogérance") but can **never be a legal entity** – their powers are limited by the bylaw (statutes)

Joint Stock company

- A.S
- Made for bigger companies
- Limited liability
- Minimum capital stock : 37.000 €
- Shareholders : min. 2
- Governance :
 - Dualistic : Executive board and Supervisory Board
 - Monistic : a board of Directors

Civil Company

- Civil Code
- Great for property management
- Advantages in succession and taxes
- At least two shareholders
- No minimum capital stock
- Administrated by a manager
- Corporate tax **OR** income tax (option)

European Company *Societas Europaea*

- Under the law of the country where the company has been registered
- Minimum capital stock : 120.000€
 - Corporate tax
- Main advantage : makes it easier to transfer the seat to another country within the E.U ([L. 229-2 French commercial code](#))

Simplified Joint Stock Company

Société par action simplifiée (SAS)

Art. L. 227-1 and seq. of the french commercial code

Advantages

- Flexibility
- Freedom in the articles association
- Less formal
- Exactly like Joint Stock company minus the disadvantages (mainly the formalities)

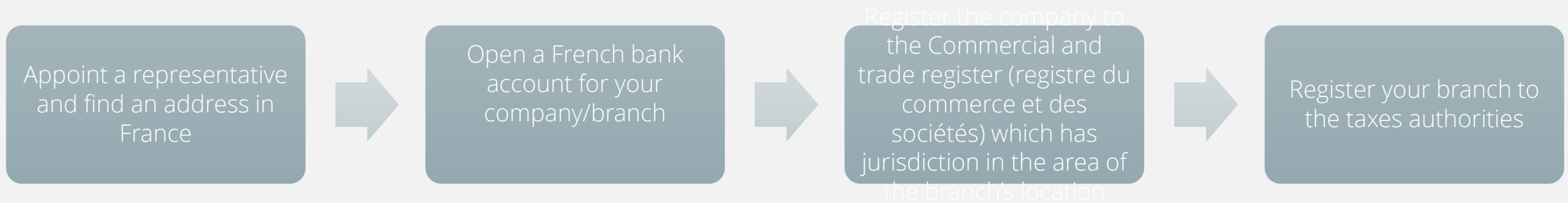
Shareholders

- Min. 1
- Can be a legal entity
- Liability limited to the participation
- Option to create special shares giving advantages to the holder (for instance : multiple votes)

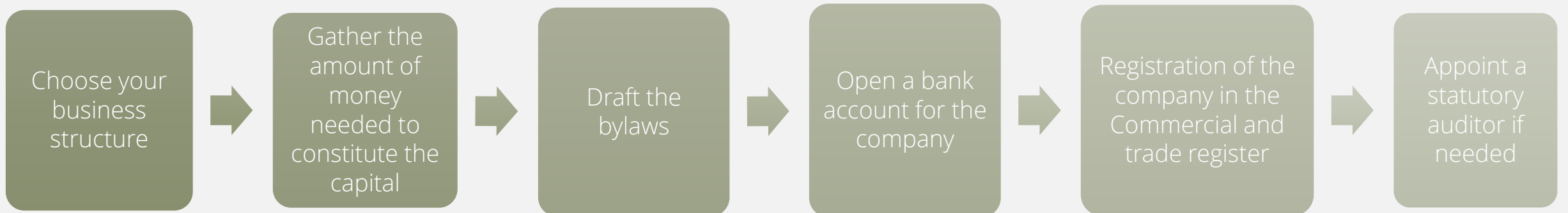
Governance

- Again flexible : every kind of management can be chosen in the bylaw
- Required : a president
- Optional :
 - Managing director
 - Executive board
 - Board of Directors

STEPS TO CREATE A BRANCH/COMPANY IN FRANCE



SPECIFIC TO THE SUBSIDIARY:



BEFORE YOU START YOUR ONLINE BUSINESS, YOU HAVE TO COMPLY WITH GDPR...



FRENCH CONSUMER PROTECTION LAW

- How does consumer law apply to online purchases?
- What should you do to fulfil the consumer law's requirements?

OBLIGATIONS OF THE E-COMMERCE SELLER TO PROTECT THE CONSUMER

The Article L.221-5 of the Consumer Code provides a list of the information that must be given to the consumers:

1. The identity of the trader
2. The identity of the host: he is responsible as a content editor
3. The professional must deliver the good or provide the service on the date or within the time indicated to the consumer (the Article L.216-1 of the Consumer Code)
4. Precise description of the characteristics of the products or services offered
5. Information on the price in euros including all taxes (the Article L.112-1 of the Consumer Code)
6. Information on guarantees
7. Conditions, time limits and procedures for exercising the right of withdrawal
8. Information on the delivery date of the good or service

CONSUMER RIGHTS FOR ONLINE SHOPPING

The consumer is protected by the provisions of Articles L.221-11 et seq. of the Consumer Code, as well as the law of 21 June 2004 on confidence in the digital economy

The consumer has the following statutory guarantees:

The legal guarantee of conformity
(Article L.217-4 of the Consumer Code)

The legal guarantee of hidden defects (Article 1641 et seq. of the Civil Code)

The commercial guarantee (Article L.211-2 of the Consumer Code)

THE CONSUMER'S RIGHT FOR WITHDRAW

In accordance with the Article 221-5 2° of the Consumer Code, professionals have to provide full information about the right to withdraw and also the withdrawal form

The withdrawal period and the procedures for exercising it have to be mentioned in the General Terms and Conditions

The decree of 17 September 2014 presents a standard withdrawal form.

If the company fails to provide a specific form, the withdrawal period is extended to 12 months

UNFAIR CONTRACT TERMS

A contract's clause can be considered as "unfair" when it causes a significant disbalance between the parties' rights and obligations arising from the contract, to the detriment of the consumer.

There are two types of unfair contract terms under the French Consumer Code:

Grey list: terms presumed unfair (Article R132-2 of the Consumer Code)

Blacklist: terms incontestably presumed unfair (Article R132-1 of the Consumer Code)

- The Unfair Terms Committee adopted a recommendation on 24 May 2007 : Clauses declared unfair by the Commission concern all stages of the contract between the e-merchant and the consumer
- Penalties for unfair terms in e-commerce : the nullity of a clause that is deemed unwritten (Article L.132-1, paragraphs 6 and 8 of the French Consumer Code)

Contractual documents must be drafted carefully in compliance with the current legislation and updated as necessary (General terms and conditions of sale, General terms and conditions of use)

MEDIATION IN E-COMMERCE

- Since 1st January 2016, any Company which operates an e-shop must offer a free mediation service that can be seized by consumers / users of the website (the “Client”). It should be provided in the General Terms and conditions.
- The aim of the mediation is to avoid a legal action in the event of a dispute between the Client and the Company.
- In case of conflict, the Client has the right to ask the resolution of the claim to be done by a mediator: the mediator must be appointed from the list maintained by the Commission of Control and Regulation of Consumer Mediation (CECMC).

Important point: the professional will have to pay a sum of about €60 for the opening of the mediation file

Advantage: an out-of-court settlement is always less expensive than litigation with legal fees



FRENCH AND EUROPEAN TAX LAW

- Do you have to pay the French business tax?
- Questions about the VAT

EUROPEAN REFORM ON E-COMMERCE TAXATION IN 2021

Since 1st July 2021, small parcels under €22 sold online by a country outside the European Union are no longer exempt from VAT

Objective of the new tax in the EU: to combat unfair competition from new players

Advantage for EU e-merchants: fairer competition with extra-EU sellers

Changes resulting from the reform

Above €10,000 of sales in a country, the seller will have to pay the country's VAT.

VAT now applies to all goods sold online in the EU, regardless of price.

FRENCH CORPORATE WHT

WHT ON BRANCH INCOME

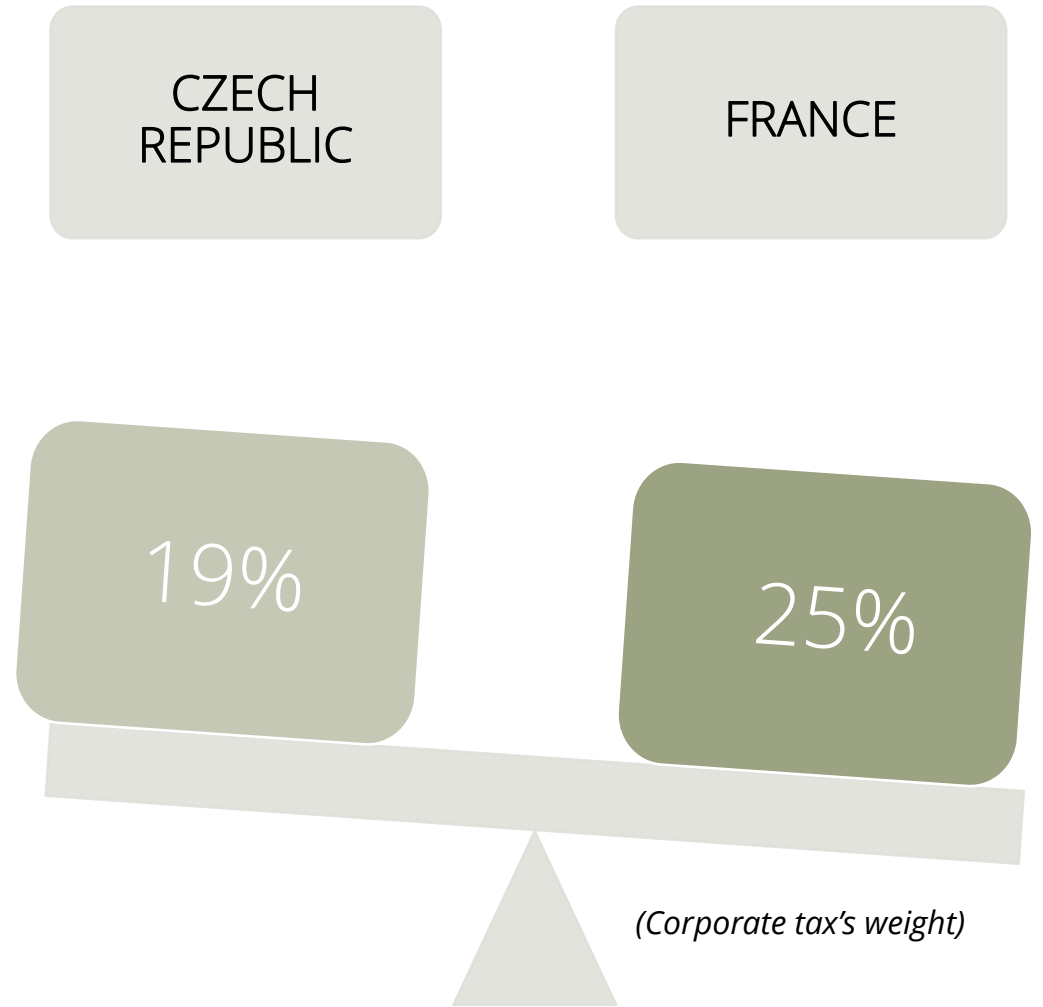
It is presumed that you will re-distribute the branch's profits to the holding's shareholders. Therefore, WHT is levied on French branches of non-resident, non-EU corporations at the rate of 25% (or a reduced tax treaty rate) on net profits.

Profits realized in France by non-resident corporations whose head offices are located in an EU country or in the European Economic Area are not subject to branch WHT, provided that certain conditions are met (e. g. effective head office in an EU country or non-resident corporation subject to corporate taxation).

FRENCH CORPORATE TAX

Every company established and registered in France, even branches, must contribute to the Corporate tax based on their profits.

**The corporate tax rate for 2023
is 25%**



VALUE ADDED TAX IN FRANCE

WHO PAYS VAT?

- Companies conducting commercial or industrial activities;
- Some types of professionals, such as: attorneys at law; certified accountants; authors...

20%
(standard rate)

10%, 5.5%
or 2.1%
(reduced rate)

WHEN TO SUBMIT YOUR VAT RETURN ?	Monthly normal real regime (EM)	Simplified regime
Companies carrying commercial/industrial activities (annual turnover)	Over 818 000€	Between 85.800€ and 818 000€
Companies only providing services (annual turnover)	Over 247 000€	Between 34.400€ and 247.000€
VAT instalments	Every month	Every year

LABOR COSTS IN FRANCE IN 2023

In France, the gross minimum wage is €1678,95 per month.

Since 1st August 2022, the gross hourly cost is €11,07.

Social security contributions are calculated at a percentage rate on the employee's gross wage.

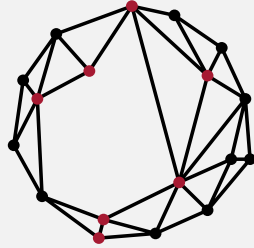
For 2022, on average the employer's share of contributions represents the 45 % of the gross salary. The employee's share of French social contributions represents approximately 20% to 23% of the remuneration.

Social contributions paid by the employer and the employee:

1. Social security contribution: covers old age insurance
2. Unemployment insurance contributions: finance unemployment benefits
3. Compulsory supplementary pension contributions: 60% are paid by the employer and 40% by the employee

Main contributions paid only by the employer:

1. Family allowance contributions
2. Social security contributions: cover sickness insurance, maternity, disability and death
3. Contribution solidarity autonomy
4. Contributions for accidents at work
5. Payment to the National Housing Assistance Fund
6. Contribution to the AGS



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