

SEVERAL OPTIONS TO DEVELOP YOUR ACTIVITY ABROAD
Non Stable Establishments – Only for representation purposes

1) The RFE – Representative Foreign Company: Acts on behalf of the foreign company and reverts all development issues for validation to the Parent Company. Can not be in charge of the whole commercial cycle or the Parent Company may risk a Tax requalification into a stable establishment.

2) The Liaison Office / Representative Office : Official Local Office only allowed to represent the Parent Company in terms of Marketing and B to B / C development. It can counts many employees working at the same French address. Can not be in charge of the whole commercial cycle or the Parent Company may risk a Tax requalification into a stable establishment.

5) The Fiscal Representative/Agent: Its role is to represent the Foreign Parent company to allow the flow of VAT and other Tax Returns in France

Stable Establishments – French GAAP compliance

3) The Subsidiary: A French fully registered company whose registered /paid up capital is partially or fully owned by the parent company (ref: How to form SARL). Submitted to French accounting regulations & to French corporation taxes.

4) The Branch: Foreign Establishment - No paid up capital in France. Submitted to French accounting regulations & to French corporation taxes. Agreements to avoid double taxation.

The RFE status gives the opportunity to a foreign company to recruit local representants and begins to set up a local presence on the French market at a slow pace.

Good opportunity for the employer to approach the French market in order to understand the economics and cultural strategic stakes. This is the ideal solution to become familiar with the French market, test the commercial impact of new products without allocating straight away an important budget and paying taxes before having generated first profits!

This status also has the merit to offer particularly interesting and diverse positions to French residents with entrepreneurial skills, with a French employee status and its benefits.

DUTIES OF THE FOREIGN EMPLOYER

- To be registered as an employer in France you will need to obtain your SIRET & APE code issued by INSEE after registration with the URSSAF d'Alsace– CNFE
- To define a job profile that meets the criteria for non-taxability in France
- To apply and respect the French Labour Law & the CCN (convention collective Nationale=Union trade agreement) applicable
- To declare and register new employee to group benefits (pension, life & health insurance)
- To respect the deadline of declarations and payments of the social contributions (quarterly and annually)
- To manage monthly payslips

SOCIAL ORGANISATION DESIGNATED TO RFE STATUS

- URSSAF d'Alsace, 67945 Strasbourg cedex 9 (health),
- Pôle Emploi services, TSA 20108, 92891 NANTERRE CEDEX 9 (unemployment)
- Humanis Group, ex Novaslis Taitbout (retirement) Paris

JOB PROFILE

The RFE can not be in charge of the whole commercial cycle. He/she acts only as a representative on behalf of the foreign company, he/she prospects, analyses the market, diffuses the company's documentation.

The RFE receives instructions from the parent company and systematically inform the parent company of any order or SAV requirements. Sales made in France must continue to be managed from the parent company, with regard to quotations, pricing and delivery of merchandise and services. This effectively proves the **NON TAXABILITY** of the foreign company to French taxation - except for Social charges ! (Rome Convention 1980)

IMPORTANT ! If the actual work of the RFE in France is considered as directly generating added value in France after an inspection, the Tax office can requalify the activity in Branch or Subsidiary and required a review of the accounts relating to transactions over the last 5 to 10 years. If this requalification takes place, it will be necessary to reconstruct the accounting for these previous years and apply the French taxes in addition to penalties on French profits!

FRENCH LABOUR LAW and CCN (Union trade Agreement)

As any other French employee, the RFE is subject to the French Labor Law and must be covered by an employment contract (CDD or CDI) defining job title and contents - usually senior executive level due to his/her isolated function - the monthly gross salary, the CCN applicable and the rights in case of dismissal or termination during the notice period. The RFE by extension must be entitled to the same social rights regarding the "group benefits" than any other French employee in matters of retirement, life & health insurance.

The CCN is defined by the APE code given by INSEE and based on the activity of the parent company. The parent company will receive 2 SIRET numbers, the first one linked to the foreign head office's address and the second linked either to the officially appointed agent in France or to the RFE employed accordingly to the URSAFF Convention if this one is set up or not.

However, the training activities initiated for the benefit of RFE can not be supported by an OPCA because the RFE is not subject to payment of the Apprenticeship Tax (TA) or to the "Taxe de Formation Professionnelle" (FPC). By extension, it is not possible either to set up a rental contract for a company car directly by the employer because the RFE can not be subject to the company car tax (TVTS) due to the non-existence of a permanent establishment in France. In this case, the lease is generally made through the employee him/herself, who is then refunded. Good point, since 2006, unpaid wages are paid by the FNGS in case of bankruptcy of the company or failure to pay. The duration and amount of unemployment benefits is determined in the same way as for other French employees.

REIMBURSEMENTS OF EXPENSES & FRENCH VAT REFUND

Because of their non taxable activities, most of foreign companies do not hold a bank account in France, that is why the RFE has to manage his expenses through either a personal front payment or an advance on monthly expenses. By obtaining proper invoices with the company name & address for the RFE expenses, the foreign company can obtain once a year the reimbursement of its French VAT– under the condition that the company is registered for VAT in its country:

- Directive 2008/9/CE du 12 février 2008 pour les entreprises EU
- Directive 86/560/EEC du 17 novembre 1986 pour les entreprises non EU.