



# Law of Modernization of the Economy

## Key new measures

07\_2008

This law is the latest step in the series of economic reforms launched by the French government in the spring of 2007 and stems from the law ratified on August 21, 2007, to improve purchasing power, employment and the business environment.

The law of modernization of the economy focuses on invigorating the French economy. It fires up the engines on an open-market economy:

- ✓ encourages **entrepreneurs**;
- ✓ stimulates **competition**;
- ✓ increases the country's economic **attractiveness**;
- ✓ encourages **financing for the economy**

With this new law, France will be able to strengthen its place as the most competitive country in Europe as a choice for business locations (KPMG, Competitive Alternatives 2008).

## BOOSTING ATTRACTIVENESS FOR EXPATRIATES

### A. New Measures to Attract Foreign Talent

#### 1. Five Major Fiscal and Legal Improvements for Employing Expatriates

- **Easier to Hire Expatriate Employees:** Expanding on the existing privileges currently given to employees of the same corporate group prior to their arrival in France, the new measures facilitate the direct recruitment of salaried and non-salaried employees from outside France.
- **Tax Exemption on Income Earned Abroad:** For expatriate salaried employees engaged in professional business activities in France, the tax exemption on any supplementary income or their expatriation bonus generated outside France is increased to up to 50%. The expatriation bonus exemption lasts for 6 years.
- **Exemption from Wealth Tax:** Expatriate salaried employees are exempt from paying a wealth tax on assets or estates owned outside of France for five years.
- **Reduction on Investment Income Tax:** A tax exemption of 50% on income from "passive" sources such as dividends, interests and fees and on capital gains on equity transfers from foreign sources.
- **Relaxation of Social Charges:** Excluding the social security agreement, expatriate employees are exempt from paying old age insurance premiums for 6 years.

#### 2. A New Residency Permit to Attract Highly Skilled Talent

A residency permit may be given to foreign nationals who make an "exceptional economic contribution to France". This permit will allow them to stay on French territory along with their families for a period of ten years.

**NOTE** <sup>(1)</sup> Law of Finance for 2008 dated October 17, 2007, which ratifies the London Agreement Law of January 3, 2008 for the development of competition in the consumer service sector, Law of February 8, 2008 to improve purchasing power, Law of February 13, 2008 concerning the reformation of the public employment service structure, Law of July 4, 2008 that introduces port reforms, Law of June 25, 2008 aimed at modernizing the job market ...



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### ■ Two very attractive 3-year temporary residency permits already exist:

- the “**skills and talents**” permit for individuals who are involved in economic development or scientific or intellectual projects, also grants residency status to their families and gives them access to the job market;
- the “**expatriated salaried employee**” permit, for employees that are seconded or expatriated to France, facilitates skills transfer within a company and offers the same advantages as the skills and talents card for the accompanying families.

## B. Lower Taxes and More Legal/Financial Security

### 1. Larger Exemptions on Business Taxes

Certain companies located in **areas benefiting from regionally directed financial aid** are eligible for an exemption based on the investment amount and no longer by the number of jobs created.

### 2. Private Financing Encouraged with the Creation of “Endowment Funds”

These endowment funds<sup>2</sup>, inspired by US-style endowment funds, benefit from an **attractive patron tax benefit**: for individuals, an income tax reduction of 66% of the amount paid into the fund and for corporations, a tax reduction of 60%.

### 3. Three Key Measures to Strengthen Legal and Financial Security:

- **Creation of advance general tax rulings<sup>3</sup> with a response period of 3 months.**
- **Considerable expansion of advance rulings for social security:** all requests concerning exemptions from social contributions including those for social security can be made in the form of advance ruling requests.
- **An advance ruling procedure has also been introduced for aid to companies to maintain and retain jobs.**

## C. Ultra-Fast Internet Fiber Optic Broadband for All New Buildings

- The law facilitates connections in existing buildings by encouraging operators to cover the costs of fibre-optic cable installation for ultra-fast broadband Internet.
- Pre-installation of fibre optic network cables, or “fibre-to-home”, within new buildings will become mandatory in all multi-unit buildings with more than 25 dwellings beginning in 2010 and in all other buildings beginning in 2012.

**NOTES** <sup>(2)</sup> Financing tool that allows non-profit, general interest organizations (universities, hospitals, museums etc.) to use funds to ensure a significant portion of their budgets. These funds are made up of capital paid out in an irrevocable manner by a donor and only include capital revenue donated to support the budgets of these institutions.

<sup>(3)</sup> In the case of inquiry on the rights applicable to a specific situation, the written ruling procedure allows the taxpayer to obtain a specific and definitive response contrary to the administration even if the solution is contrary to law. The fiscal written ruling thus presides over the legal security of the taxpayer based on the legality and hierarchy of the standards.



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### MEASURES THAT MAKE FRANCE MORE COMPETITIVE

#### A. Stimulate the Creation and Development of New Companies

##### 1. Simplified status for entrepreneurs

This law helps all French citizens, who wish to make use of it, by initiating a **simple and advantageous system**:

- only one **document needs to be filled out** in order to declare their business activity (no registration is required in the official Business and Company Registry);
- A flat tax is applied, limited to 13% for the company's sales turnover and to 23% for service revenues. No VAT tax is applied.

##### 2. A tax regime that is friendly to new companies

Companies no older than 5 years are now able to opt for a partnership-style tax regime. Similar to the U.S. system, entrepreneurs can deduct the costs incurred to make taxable income from their income tax while operating under limited liability and carrying out their fiduciary duties.

##### 3. Modernization of Risk Capital Instruments

This law creates a new category of French private equity funds (FCPR<sup>5</sup>): the **contractual FCPR**, in which the investment, commitment and partial buyback rules are based on a single set of fund regulations. It is a competitive legal instrument with respect to limited foreign partnerships and it **favours the development of capital investment and investment in new companies or expansion of existing companies**.

##### 4. Simplification of Company Rights

- For one-person limited liability companies (EURL<sup>6</sup>): application of **typical statutes**, simplification of the legal **advertising system**, addition of an option to use **videoconferencing** and other means of telecommunications **for meeting with associates, simplifications concerning accounting obligations etc..**
- For "Société par Action Simplifiée" or SAS companies<sup>7</sup>: the requirement to use an independent auditor is eliminated and the minimum capital requirement is removed.
- For "Société Anonyme" or SA companies (similar to "Inc." companies in the U.S.), the rules for retaining shares or assigning options are simplified.

##### 5. Preferential Treatment for Small and Medium-sized Enterprises in Public Invitations to Tender

- Access to 15% of the annual amount can be reserved for innovative SMEs in high-tech and research and development bids and technological studies<sup>8</sup>.
- In non-reserved public invitations to tender, SMEs can be favoured if their bid is considered equal (i.e. minimal discrepancies amongst several offers.)

**NOTES** <sup>(4)</sup> Benefiting companies: the SA, the SAS and the SARL, whose capital and voting rights remain at a level of at least 50% being held by one or more physical persons and at least 34% being held by one or more persons who hold, within these companies, the position of president, managing director or president of the board of directors.

<sup>(5)</sup> Its goal is to help the small and medium-sized companies by allowing participation in their capital.

<sup>(6)</sup> The EURL is a company with limited liability (SARL) reduced to a single person, called "single associate" who exercises the powers assigned to the group of associates and whose financial liability is limited to the amount of capital that it has brought.

<sup>(7)</sup> The SAS, or sociétés par actions simplifiées, is a relaxed form of the company type "SA". The associates have a greater freedom to establish the composition of the SAS management and its operational rules within their business statutes.

<sup>(8)</sup> If a public purchaser spends a single amount of 100,000€ within twenty markets of this type during the course of a single year, it can reserve three of them for innovative small and medium-sized companies.



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### B. Stimulation of Competition

#### 1. Creation of a Single and Strengthened Competition Authority

Endowed with more powers and extensive means than the existing competition council, this authority will examine all merger requests. The Ministry of Economy can ask the authority to conduct a review for anti-competitive practices.

#### 2. Price Liberalization between Suppliers and Distributors

Suppliers are now free to set their prices according to their agreements with individual distributors rather than providing goods at one fixed price to all distributors.

#### 3. Expansion of Promotional Offers and Product Clearance Sales

- 2 additional weeks of stock clearance sales are allowed every year;
- Authorization to hold product promotions all year long.

#### 4. Flexibility to set up Hotels and Supermarkets

- Removal of the requirement for business authorization for hotels.
- No restrictions for establishing supermarkets with areas up to 1,000 square metres (previously 300 m<sup>2</sup>). The requirement to demonstrate economic need or market demand for business authorization has also been eliminated. The procedure for business equipment department committees has been simplified and accelerated (period has been cut in half).

### C. Incentives for Innovation

#### 1. Simplification of the Patent System

- Simpler registration: Submission of a patent description is sufficient to be assigned a registration date. Claims may be submitted at a later date.
- Easier to defend: Expanded recourse for patent infringement.
- Easier to manage: Increased protection of patent-holders' rights.

#### 2. Improvement of the R&D Credit

**The law introduces a new advance ruling:** companies may, from now on, directly contact the Research Ministry and/or the various bodies (e.g. OSEO) that support innovation in order to obtain a ruling on the scientific and technical nature of their research project. This ruling takes precedence in any tax administration issues.



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- These measures were written to foster an environment favorable to innovation, a government priority that already includes:
  - **Doubling of the research tax credit** thus making it the best tax credit within all of Europe;
  - **25 to 30% reduction in the patent costs** due to the removal of the requirement to translate the complete texts of European patents into the national language in order to be enforceable within signatory countries;
  - **Strengthening of the methods available for patent infringement claims** and improvement of the reparation for damages submitted by patent breach claimants (law dated October 29, 2007).

### D. More Favorable Business Environment

#### 1. Reduction of Payment Periods

The law limits payment periods between companies to **60 days** (they currently reach an average of 67 days) in order to lighten the financial constraints that constrain SMEs and to improve their working capital<sup>9</sup>.

#### 2. Paperless Administration Invoices

Beginning January 1, 2012, the State will accept invoices issued by its suppliers in electronic format.

### E. Strengthens Paris as a Financial Center

The law authorizes the government to modernize the rules applicable to asset management in order to make the French legal environment even more attractive to managers as well as to investors. Two examples of this reform:

- **Simplification and modernization of investor access to the stock market** to make the French stock market a desirable place for companies of international standing to list their shares
- **Modernization of the rules applicable to investment funds** in order to strengthen the asset management industry in France. With 2,400 billion euros in assets in French investment funds (one third of the total European asset funds), the French asset management industry is, today, a European leader.

**NOTE** <sup>(9)</sup> Note: The State payment period has now been reduced to 30 days from the original 45 days.