SEDI

S.A.S
SOCIETE par ACTION SIMPLIFIEE
Filiale (Subsidiary)

How to form..:

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 : This legal form of Office doesn't exist anymore as such and can not obtain a SIRET number or a KBIS : a foreign company can lease premises in France but only the registration of employees in France will generate a SIRET Number in France and a proof of existence. Any hidden commercial activity may risk a Tax requalification .

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/SAS). 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.

5) The Fiscal Representative/Agent: Its role is to represent the Foreign Parent company for Tax & VAT issues when a stable establishent is not registered locally & when business transactions are requiring Tax & VAT to be declared locally.

SARL / SAS

In France, two types of limited liability companies have to be considered :

=> **The SARL** of which each share gives the right to vote at General Meetings in proportion to the shares held.
=> The **SAS,** which allows the creation of several categories of shares, including shares that do not give access to voting rights. This can be useful if the Legal Director wishes to involve his/her employees in profit at the end of the year or to open the capital to third parties.

The status of legal Director (Gerant in SARL / President in SAS) doesn't give access to the income protection insurance. However, a private insurance such as GSC can be subscribed to cover this risk.

Incorporation procedure

- Minimum : 1 Shareholder (SAS unipersonnelle or SASU)
- Maximun : unlimited number of shareholders
- Share / Paid up Capital : minimum 1 Euro
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Bankers and your clients / suppliers may require more investment capital from you for economic reasons and not necessarily legal reasons ! Always verify the paid up capital of your competitors !

It is particularly important to note that your share capital allows you to absorb your losses at the end of the year. Shareholders' equity in France must remain above 50% of the share capital in order to avoid forced recapitalization within two years and your registration with the Banque de France as a risky company.

Incorporation documents

1) Legal notice to be published
2) Signed Bylaws—drafted by a Lawyer
3) Minutes of incorporation appointing Président / DG
4) Registered office & lease contract / domiciliation contract
5) Bank / CARPA certificate certifying deposit of paid up capital prior to company registration
6) President & Directeurs Généraux to provide
   - Scan of valid passport certified
   - Proof of address
   - Affidavit
7) Beneficial owner disclosure MBE (PSCs in the UK)

Key documents / Info and registration numbers:

KBIS = Certificate of Incorporation
INSEE certificate
Welcome letter from the Tax Office (Les impôts)

RCS / SIRET number / APE code / VAT (TVA) / CCN

Year end Accounts / Financial Statements & Tax return (Liasse fiscal) have to be filed to the Tax Office & to the Greffe du Tribunal de Commerce(Companies House) within 4 to 6 months after the accounting Year End.

In addition to a **Chartered Accountant (Expert-comptable),** the company will have to appoint an **Auditor (Commissaire aux Comptes CAC**) if any two of the following 3 thresholds are reached :

Total Balance Sheet : 5 Millions Euros
Turn Over above 10 Millions Euros
Average number of employees : over 50

Shareholding

SAS Shareholders hold shares (actions) rather than partnership shares (*parts sociales*) These shares are distributed to the shareholders in consideration of their respective contribution and in proportion to the unit value of each partnership share.

Shareholder contributions may take different forms :
1° Cash contributions
2° Asset contributions
3° Licence/ industrial contributions

The SAS can have different categories of shares : voting rights or non voting rights which is one of the greater difference as compared to the SARL. Some shareholders may not participate in important decisions .

The President :

He/she may be a physical person or another company and is usually appointed during General Meeting of Shareholders for a limited or unlimited period.

He/she/it represents the company to third parties and is empowered with all authority required to make everyday management decisions.

However, he/she must obtain prior authorization from the majority of shareholders for important decisions, in particular those which may call into question the assets of the company.

Liabilities & Income protection will have to be secured for the President & Directeurs Généraux.

SEDI France SARL
18 rue Gambetta, 95 880 ENGHIEN LES BAINS, France
Tel : +33 (0)1 34 05 07 71
RCS Pontoise B 410 485 981

SEDI UK LTD
Wilberforce House, Station Road, NW4 4QE LONDRES, UK
Tel: +44 207 953 4025
Company registered in England &Wales, n°3494781

Website : www.sedigroup.com - Email : info@sedigroup.com