France

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What's new?

Summary of updates/Changes to R&D and government incentives from 1 January 2019 through 31 October 2020

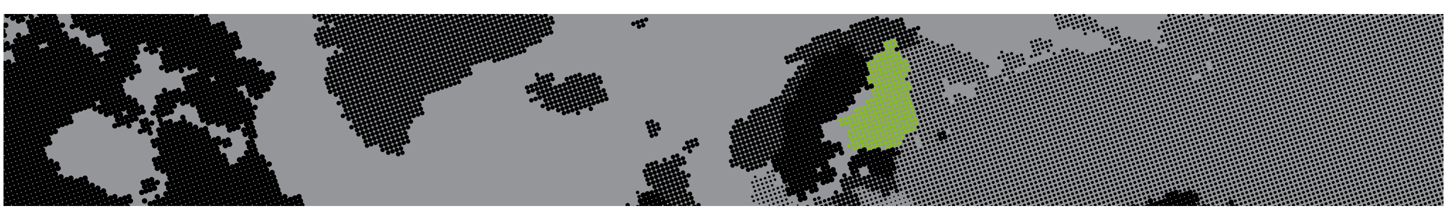
The CICE employment tax credit was abolished as from 1 January 2019 and a revised IP box that is in line with the OECD modified nexus approach became effective on the same date

The general and administrative (G&A) expense rate for staff expenses was reduced from 50% to 43% for the R&D tax credit and the innovation tax credit as from 1 January 2020

Featured government incentives

Incentive name	Description	Maximum percentage	Qualification standards	Key exclusions or issues
R&D tax credit	An R&D credit is available equal to 30% of the first EUR 100 million of qualifying R&D expenditure incurred during the tax year. The rate is reduced to 5% for qualifying R&D expenditure exceeding that amount, and the 30% rate is increased to 50% in overseas territories and Corsica	30%	Payroll, depreciation, subcontracting	EU territoriality
YIC (young innovative companies) regime	Specific measures apply to support new companies investing more than 15% of their spending on R&D Eligible companies are new businesses that have existed for less than eight years, are independent, qualify as small and medium-sized enterprises (SMEs),[1] and at least 15% of their total expenditure is R&D expenditure	Reduction in social charges by about 30/35%	Social charges	EU "de minimis" rules apply
IP box regime	Reduced tax rate of 10% (vs. regular corporate tax rate of 28% or 31%) on income/capital gains from patents and copyrighted software licenses	10%	The IP box applies to profits earned from the license (or sale) of patents and/or copyrighted software	A company must demonstrate a nexus between qualifying profits and the R&D expenses that generated the underlying technology. The embedded royalty approach is not allowed
Various R&D grants (including innovation cluster funding)	The national and local authorities offer numerous research grants that typically are targeted at certain industries or outcomes, such as medical research, big data, green technology, smart cities, robotics, etc. Some grants (particularly for SMEs) cover expenses that are outside the scope of R&D	25% for MNEs, 40% to 60% for SMEs	Payroll, depreciation, subcontracting	

1. SMEs are defined under the applicable EU rules as companies with fewer than 250 employees and sales turnover not exceeding EUR 50 million a year or a balance sheet total not exceeding EUR 43 million.



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Industries most often affected by government incentives in country

	Technology, Media & Telecom		**Financial Services**
●	Telecom, Media & Entertainment	●	Banking & Capital Markets
●	Technology	●	Insurance
	Consumer		Investment Management
●	Consumer Products		Real Estate
●	Retail, Wholesale & Distribution		**Life Sciences & Health Care**
●	Automotive	●	Health Care
●	Transportation, Hospitality & Services	●	Life Sciences
	Energy, Resources & Industrial		**Government & Public Services**
●	Power & Utilities		Health & Social Care
●	Mining & Metals		Defense, Security & Justice
●	Oil, Gas, & Chemicals		Civil Government
●	Industrial Products & Construction		International Donor Organizations
			Transport

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Type	National incentive?	State, provincial, regional or local incentives?[1]	Filing deadlines imposed?	Is the claim made in advance or arrears?[2]	Nature of incentive	Maximum benefit available to large enterprises	Maximum benefit available to small and medium-sized enterprises
Innovation							
Research & development (R&D)	🟢	🔴	🟢	Arrears	Qualifying expenditure are R&D staff expenses, G&A expenses, depreciation allowances for assets used for R&D activities in France, patent costs, contract research costs, and costs of technological monitoring	No limit	30% of the first EUR 100 million of qualifying R&D expenditure; 5% of qualifying R&D expenditure above that amount
Patent box	🟢	🔴	🟢	Arrears	Income qualifying for the IP regime includes income received as consideration for the use of patents, software, and similar assets, as well as capital gains from the sale of such assets. Use means licensing or sub-licensing (a proper license agreement must be in place)	No limit	10% reduced corporate income tax (CIT) rate for qualifying income
R&D grant: national or EU	🟢	⚪	🟢	Advance	Non-refundable and refundable cash grant	Varies, around 20%–25% of project expenditure	Varies, around 40% (maximum of 60%) of project expenditure
R&D grant: state/province	⚪	🟢	🟢	Advance	Non-refundable and refundable cash grant	Varies, around 20%–25% of project expenditure	Varies, around 40% (maximum of 60%) of project expenditure
Innovation tax credit	🟢	🔴	🟢	Arrears	Qualifying expenditure are innovation staff expenses, G&A expenses, depreciation allowances for assets used for innovation activities in France, contract research costs	N/A	20% for qualifying innovation expenditure (pilot model and prototype development costs), up to EUR 80,000 per year and EUR 200,000 for three years (EU "de minimis")

Key: 🟢 = PERMANENT INCENTIVE ◍ = TEMPORARY INCENTIVE ◍ = NEGOTIABLE 🔴 = NO 🟡 = LIMITED APPLICABILITY ⚪ = NOT APPLICABLE

Notes:

1. Green means that this incentive is currently in effect. Yellow means that the incentive has limited applicability, i.e., the requirements for this incentive limit its value to most companies. Red means that there is no incentive.
2. If the response is advance, this means that the government must approve the award of the incentive prior to the commencement/completion of the project/activity. If the response is arrears, this means that the award of the incentive is determined at the end of the tax period or after the completion of the qualifying project or activity. Most tax incentives are considered to be claimed in arrears because they are reported on tax returns.

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Type	National incentive?	State, provincial, regional or local incentives?[1]	Filing deadlines imposed?	Is the claim made in advance or arrears?[2]	Nature of incentive	Maximum benefit available to large enterprises	Maximum benefit available to small and medium-sized enterprises
Innovation (continued)							
Young innovative companies	🟢	🔴	🟢	Arrears	CIT, certain taxes, and employers' social contribution exemptions for SMEs	N/A	Tax exemptions: • CIT: 100% the first year, 50% the second year • Local taxes: Up to seven years • Social contribution exemptions: 100% for innovation staff for up to seven years
Video game development tax credit	🟢	🔴	🟢	Arrears	Qualifying expenditure are video game development costs: Staff and author expenses, depreciation allowances used for the development of a game (no building depreciation), G&A expenses, subcontracting costs (up to EUR 2 million)	30% of qualifying expenditure	30% of qualifying expenditure
Investment							
Capex	🟡	🟡	🔴	Advance	Cash grant (assisted areas) or bonus depreciation deductions	Varies	Varies
Employment	🔴	🟡	🔴	Arrears	Cash grants (assisted areas) and local tax credit	Varies	Varies
Training	🔴	🟡	🔴	Arrears	Cash grants and local tax credit	Varies	Varies
Environmental sustainability							
Sustainability	🟡	🟡	🔴	Advance	Cash grants and local tax credit	Varies	Varies

Key: 🟢 = PERMANENT INCENTIVE (green striped) = TEMPORARY INCENTIVE (yellow striped) = NEGOTIABLE 🔴 = NO 🟡 = LIMITED APPLICABILITY ⚪ = NOT APPLICABLE

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Country background

In 2020, for companies with a turnover of EUR 250 million or greater, the standard corporate income tax rate is 31%, with a reduced rate of 28% applying on the first EUR 500,000 of taxable profits. For companies whose turnover is below EUR 250 million, the income tax rate is 28%. The rate will be progressively reduced in 2021 to 27.5% for companies with turnover at or above EUR 250 million and 26.5% for companies with turnover below that threshold, and further reduced for all companies to 25% by 2022. Small or new businesses may benefit from lower rates.

France offers a volume-based R&D tax credit that may be carried forward for three years. If the credit is not utilized within the three-year period, the taxpayer is entitled to a refund. SMEs, new companies, young innovative companies (YIC), and companies with financial issues can request immediate refunds of unutilized credits. The credit also may be financed by a bank if the taxpayer meets certain criteria, e.g., a company may negotiate a credit line based on the unutilized credit.

A new IP box regime has been in place since January 2019, allowing for a reduced income tax rate of 10% on revenue generated by patent licenses and copyrighted software.

Innovation Incentives

Research & Development (R&D)

Nature of incentives

R&D expenses are deductible in the year in which they are incurred. Additionally, France offers an R&D credit equal to 30% of the first EUR 100 million for qualifying R&D expenditure incurred during the tax year and a 5% credit for qualifying R&D expenditure exceeding that amount (provided certain criteria are met). The 30% rate is increased to 50% in French overseas territories and Corsica.

An extension of the R&D tax credit, the 20% innovation tax credit, is available to SMEs for certain pilot-model and prototype developments that do not qualify for the 30% R&D credit.

Eligible industries and qualifying costs

There is no restriction on the types of entities that may qualify for incentives. Qualifying activities include basic research, applied research, and development activities. The definition of qualifying R&D is from the OECD Frascati Manual. To qualify, R&D activities must:

- Present a significant technological, technical, or scientific advancement as compared to the current state of the art (novelty and creativity criteria);
- Be associated with scientific/technological uncertainties and uncertain with respect to the anticipated outcome (uncertainty criterium); and
- Require the use of scientific methods and/or an experimental approach (systematization and transferability criteria).

Qualifying expenses generally include the following: R&D staff expenses, G&A expenses, depreciation allowances for assets used for R&D activities in France, patent costs, contract research costs, and costs of technological monitoring. Materials used in the research process do not qualify. The law also allows an estimate of G&A expenses, the formula for which is 43% of all R&D staff expenses and 75% of the depreciation allowance of assets used in R&D activities in France (including research equipment and facilities).

The following limits apply to the amount of qualifying contract research expenses: (i) there is a cap on private[1] subcontracted expenses equal to three times all other qualifying expenses, but the subcontracted R&D fees may not exceed EUR 12 million; and (ii) qualifying contract research expenses are limited to EUR 2 million where the taxpayer and the subcontractor are related entities.

Under French law, there is no requirement to bear any financial risk to claim the R&D tax credit (100% of the expenses can be invoiced to another company). For instance, contractors performing research on a time/materials basis can claim tax credits for their qualifying research expenses.

Cash grants reduce the R&D tax credit base, as well as success fees paid to R&D tax credit advisors.

IP and jurisdictional restrictions

All qualifying activities must take place within the EU and the qualifying expenditure must be part of the company's tax base. There is no restriction on the location of any resulting IP.

Other concerns

The taxpayer can request government pre-approval of projects, although this is not required to benefit from any of the incentives. A taxpayer also can apply for subcontractor certification from the Ministry of Research. Payments made to certified subcontractors are treated as R&D expenditure.

Companies with R&D expenses exceeding EUR 100 million must comply with extra documentation requirements when filing their claims, with penalties imposed for failure to comply.

1. Private subcontractors refer to companies from the private sector, as opposed to state-owned companies or institutions.

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Innovation tax credit

The 20% innovation tax credit is an additional incentive for SMEs to encourage the completion of new/improved product/process development within France; the incentive applies to the late stages of development that would not qualify for the R&D credit. This credit targets certain pilot-model and prototype developments that tend to occur after the completion of R&D, as defined under French law, i.e., the Frascati Manual definition of research.

A two-step analysis is carried out to determine which prototype/pilot-model expenses are eligible for the innovation tax credit: (i) the prototype/pilot-model expenses must be incurred in an activity that does not qualify for the 30% credit (i.e., it must fall outside the scope of the Frascati manual definition of research); and (ii) the prototype expenses must relate to a new/innovative product (i.e., a product achieving better performance, functionality, or ergonomics as compared to existing products on the market).

Qualifying expenses for the innovation tax credit include staff expenses, G&A expenses, depreciation allowances, and contract R&D costs. Grants providing funding to a qualified innovation project are applied to reduce the tax base of the project. The formula for G&A expenses is equal to the sum of 43% of all innovation staff expenses and 75% of the depreciation allowance of assets used in the innovation activities in France.

The credit rate is 20% (40% for companies in French overseas departments), and the amount of qualifying expenses is capped at EUR 400,000 (resulting in a maximum EUR 80,000 innovation credit per year per entity).

The innovation tax credit is available through 2022. Its effectiveness currently is under review by the French government, after which a decision will be made whether to extend it.

Patent box

France introduced legislation on 1 January 2019 that brings the IP box regime in line with the OECD modified nexus approach (as well as EU initiatives in this area), extends the scope of the regime, and reduces the tax rate that applies to IP income and capital gains to 10% instead of the standard CIT rate.

Under the nexus approach, the favorable tax treatment of IP income must be linked to the underlying R&D activities undertaken by the taxpayer in the country where it obtains preferential tax treatment. As a result, taxpayers wishing to benefit from the IP regime in France must track their R&D expenses and how they relate to specific patents, software, products, or product families. Based on this approach, the proportion of qualifying net income entitled to the 10% rate is determined based on the ratio of (i) qualifying expenditure (i.e., expenditure that is directly related to income derived from the IP rights and directly incurred by the taxpayer or with unrelated companies) to (ii) overall expenditure (expenditure mentioned above plus R&D expenditure incurred with related companies and expenditure for acquiring IP assets). This ratio will be calculated on a cumulative expenditure basis. Overall expenditure is defined as the cumulative qualifying expenditure incurred during all prior fiscal years (as from 2017). Transitional measures are provided for 2019/2020. A 30% uplift applies to qualifying expenditure, without the total amount of expenditure leading to a ratio exceeding 100%.

Income qualifying for the IP regime includes income received as consideration for the use (i.e., the licensing or sub-licensing, with a proper license agreement in place) of patents, software, and similar assets, as well as capital gains from the sale of such assets. In terms of scope extension, as from 2019, it should be noted that software protected by copyright qualifies for the IP regime. Patentable technology, however, no longer qualifies, except for SMEs.

R&D grant (national and regional)

France's national and local authorities offer numerous research grants that typically are targeted at certain industries or outcomes, such as medical research, big data, green technology, smart cities, robotics, etc. Some of the grants (particularly for SMEs) cover expenses that are outside the scope of R&D.

The aid rates generally amount to around 25% for large and medium-sized companies and 40% for small companies. The aid can be combined with the R&D tax credit. These grants generally are nonrefundable cash grants, but also can take the form of a refundable grant. Refundable grants are a specific type of instrument that require a partial (or sometimes full) repayment of the grant proceeds if the research achieves intended goals (e.g., commercial success), as defined in the grant.

R&D cash grants typically are channeled via the following instruments:

- Competitive project calls from certain funding bodies (e.g., *Programme d'Investissements d'Avenir, Agence Nationale de la Recherche, Fonds pour l'Innovation et l'Industrie*, or the French environmental agency ADEME); or
- Bilateral discussions with the local authorities (regional councils distribute their own funds and funds from the European Regional Development Funds (ERDF)) or with the *Banque Publique d'Investissement (BPI)* (a public bank offering cash grants and no-interest loans for SMEs).

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Investment Incentives

Capex and employment—cash grants (national and local)

The national and local authorities offer numerous research grants that are subject to EU state aid rules and focused on special lesser developed zones ("assisted areas"). When applicable to large companies (i.e., all companies not meeting the EU definition of an SME), access to aid for investment and job creation is subject to strict requirements; for example, the investment must correspond to a new activity for the company (e.g., opening a new site), the diversification of the activities of an existing site, or the creation of innovative manufacturing processes. Additional conditions must be fulfilled for investments exceeding EUR 50 million (large projects).

Some of these grants can be accessed only to the extent the investments are in regional aid zones as per the regional aid map (the current map is at: https://www.data.gouv.fr/fr/reuses/carte-des-zone-afr/).

Government support (from the national and the local authorities) includes the following:

- Territory planning grant (a national grant capped at EUR 15,000 per new job);
- Grants, interest-free loans, repayable advances from the local authorities (including support for real estate, including ERDF funds distributed by the regional authorities);
- Corporate tax exemptions in certain areas (e.g., employment priority areas and military restructuring areas); and
- Total or partial exemptions from certain local taxes (*Contribution Économique Territoriale*) for two to five years.

Other Incentives

Young Innovative Company (YIC) status

Specific measures apply to support new companies investing more than 15% of their spending on R&D.

Eligible companies are new businesses that have existed for less than eight years, are independent, qualify as an SME,[2] and at least 15% of their total expenditure is R&D expenditure.

Companies that qualify for YIC status are granted the following exemptions:

- Two-year corporate income tax exemption (100% for the first profitable year and 50% for the second year);
- Exemption from taxes, such as the *taxe foncière, Contribution Foncière des Enterprises (CFE),* and *Contribution sur la Valeur Ajoutée des Entreprises (CVAE)*, upon request for up to seven years; and
- A seven-year capped exemption of certain employer social security contributions for R&D staff remuneration.

This measure is available through 2022. Its effectiveness is currently under review by the French government, after which a decision will be made whether to extend it.

Tax credit for video games

Companies that create original and accredited video games can benefit from a tax credit of 30% capped at EUR 6 million per fiscal year under certain conditions:

- Development costs exceed EUR 100,000 per video game;
- The game is intended for sale; and
- It is created by French or EU citizens, or French residents.

The credit aims to contribute to the development of French and EU video games that are diverse, creative, original, or innovative. Accreditation (by the *Centre national du cinéma et de l'image animée*) is mandatory and focuses on evaluating the video games for the inclusion of elements of French culture, cultural creativity, variety, and quality.

Qualifying expenditure for this tax credit are video game development costs: staff and author expenses, depreciation allowances used for the development of a game (no building depreciation is allowed), G&A expenses, and subcontracting costs (up to EUR 2 million).

2. SMEs are defined under the applicable EU rules as companies with fewer than 250 employees and sales turnover not exceeding EUR 50 million or a balance sheet total not exceeding EUR 43 million.