

## SOCIAL SECURITY

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The term « social security » as used in France describes the broad collection of legally established programmes whose primary purpose is insuring persons against the financial consequences of certain risks (sickness, accident) and the cost of certain natural situations (family expenses, old age).

Social security contributions, the major contributor to which are employers, are a compulsory levy whose proportions are quite significant.

The ordinance of 4 October 1945 had the goal of generalizing the social security protection of the French population regardless of the type of worker involved, whether salaried, non salaried, a government functionary, etc...

### Employee s systems:

Employees are those persons considered by social security law as employee are covered by the “general” social security system which comprise :

- 1-the social security insurance system
- 2-the family allowance system
- 3-the professional accident and sickness system and workmen’ s compensation.

The major contributors to the system are employers, but employees pay a percentage of expenses of the first system.

### Scope of general social security system :

The general social security system is applicable to most non agricultural employees. The employer of a covered employee must be registered with the relevant social security funding institution and is responsible for registering covered employee as well.

Employer and employee contribution then become due.

The definition of “employee” for social security purposes is given by the Social Security Code. Persons pursuing certain occupations are deemed employees by law for some or all social security purpose.

### Covered employees :

According to the Social Security Code (CSS L2 41), an individual must be registered with the general social security regime, whatever his or her age or sex, if of French nationality and employed or working on whatever basis for one or more employers, regardless of the amount or character or validity of the contract.

Despite the simple reference to French nationality, coverage normally is limited to those employees working in France and includes foreign nationals.

Employees (in the labour law sense of the term) are the largest class included in the general regime’s scope. The essential characteristic of an employee is that he or she has an employment contract which implies a state of legal subordination to the employer.

The general territoriality principle of French social security legislation is that anyone (regardless of nationality) who works in metropolitan France or with a few exceptions, in the Overseas Departments, is subject to the jurisdiction of the French social security system. The nationality or place where the employer is established is of no consequence. A foreign company employing a person to work in France must be registered with the system.

The French system normally will not apply to French nationals working abroad, but French coverage can be extended. Similarly, international agreements, such as social security tantalization accord and EEC regulations can exonerate foreign workers in France temporarily for a short period, even though effectively employed in France

### Membership :

Membership (affiliation) is the term used to describe the relationship between the insured worker an a primary medical insurance fund ( “caisse primaire d’assurance maladie” ). Any person who is an employee or is considered an employee will usually be a member of the primary fund with jurisdiction over the normal place of residence.

A person normally registers only once with the social security system. Registration is made by employer, any delay will make the employer liable for any of the employee’s expenses otherwise covered. Penalties also may be imposed.

### Benefit programmes :

The general social security system comprises three separate benefit programmes.

The first, termed social insurance, provides medical, maternity, disability, old age, retirement and death benefits. These benefits are funded by employers and employees contributions based on payroll. The employees’ share is automatically deducted by the employer from salary payments.

The others two benefits programmes, the family allowance and workmen’s compensation systems are exclusively financed by employer contributions.

### Earnings base for contribution :

According to the Social Security Code (CSS Art L 242), social security contributions are levied on all amounts paid to workers in exchange of work : salaries, reimbursements, bonuses and non-cash advantage. Effective payment of salary creates the duty to pay social security contributions.

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The amount paid to the employee in exchange for working (salaire) is included in the social security contribution base, in whatever fashion salary is calculated or paid. Vacation pay is considered as salary.

Subject to an exception for indemnities for professional expenses or compensatory damages, bonuses paid in the context of the work relationship also enter in the contribution base.

Non cash advantages such as meal, lodging, telephone, electricity... furnished by the employer can be subject to contribution.

For a business trip abroad, no amount will be considered as a non cash advantage when the actual expense is justified and the amount supported by adequate records.

**Social security ceiling :**

Certain social security contributions are based on salary only up to a maximum annual amount called social security ceiling. This ceiling is fixed by decree. The decree gives prorated figures applicable depending on the pay period, which are used to withhold social security contributions from each salary payment. The current ceiling figures for monthly salary is fixed to 2516.00 euros for 2005.

For contribution rates, please see attachment with rates effective 1<sup>st</sup> January and 1<sup>st</sup> April 2005.

**Payment of social security contributions.**

The employer is liable for the employer's share of social security payments as well as the employee's, since the employer is obliged to automatically levy employee's contributions.

Payment is made to a central collection office URSSAF (Union pour le recouvrement des cotisations de sécurité sociale et allocations familiales). Payment is due monthly for enterprises with 10 or more employees, within 15 days of the month end (on a quarter base for enterprises with less than 10 employees). A statement indicating the number of employees, salaries paid and the contribution computation must accompany the payment. An annual report must be sent before 1<sup>st</sup> February every year for the previous year. Social security is assessed on a calendar year basis, whatever the enterprise's accounting period.

**Audit and sanctions**

Social security inspectors or agents of the main social security or family allowance funds can audit covered employers by examining relevant accounting documents and required records on the business premises. Personnel can be questioned to establish the contribution due.

When the establishment's accounting is deemed insufficient for social security purposes, the social security administration can officially estimate the amount.

Criminal sanctions also are provided.