



## France - Legal Framework

When considering an energy efficiency retrofit within your national housing market, a wide plethora of consideration needs to be made. Below, we list key findings to facilitate your analysis of the retrofit investment. More details and backgrounds can be found on the website [www.rentalcal.eu](http://www.rentalcal.eu).

### The analysis of rent regulations and modernization cost recovery in France shows:

- Freedom of contract and initial rent setting except in Paris where the rent price is capped by law.
- Rent increases during the contract are regulated, the price of the reference rent and the modalities of its revision are specified. The index is the I.R.L.
- The types of works and the financial amount of the last modernization are specified in the rent contract.
- The energy performance diagnosis is annexed in the rent contract.
- Subsequent rent adjustments can be negotiated for extraordinary maintenance and energy efficiency investments but they are strictly regulated and temporary (max 15 years).
- There is the legal possibility to charge the tenant with 50% of the energy savings per year but a preliminary agreement between the tenant and the landlord is mandatory. In case of agreement, the corresponding amount is set apart monthly on the rent receipt.
- The legal possibility to ask for a tenant's financial contribution is rarely used due to the tenants' high mobility in the private rented stock (60% of the tenants have moved before a five year period). The term of the rent period and the term of the loan or the technical depreciation rarely coincide.
- Even if the tenant doesn't want to be charged with the sharing of the energy savings, he must nevertheless tolerate the energy efficiency works decided by the landlord.
- Besides economic considerations, the lack of social competences and knowledge amongst the non-professional landlords prevents any agreement to be reached. On contrary, this type of agreement is widespread in the social housing sector.
- I.R.L. see: <https://www.french-property.com/guides/france/working-in-france/letting-property/rents/annual-increase/>

### The analysis of taxation and depreciation rules in France show:

- The tax legislation differentiates three situations according to the legal form selected by the landlord to manage its estates.
- - If the landlord is a private natural individual person managing directly its estates, personal income tax rules apply. Tax rates are progressive (From 0% to 45%) depending on the whole taxable income. The expenses of modernization and maintenance may be deducted from its incomes within a certain limit (10.700 euros per year in 2016).
- - If the private natural landlord(s) manages its estates through a specific legal form the so-called "Société Civile Immobilière" (S.C.I.).
- Several options are possible:
  - - The S.C.I. is fiscally transparent then its incomes or the losses are reported in the personal income tax return of each shareholder according to its percentage of shares.
  - - The S.C.I. is not fiscally transparent then the profit is taxed at 15% up to 38.120 €, 28% from 38.120 € to 500.000 € and 33% above this limit. The dividends distributed are reported in the income tax return of each shareholder. There is a tax rebate of 40% on the dividends but they are taxed as individual incomes.
- - If the landlord is a corporation, rental income is subject to corporation tax which is similar to the S.C.I. taxation.
- The depreciation system is defined according to the IFRS standards, all the components are subject to depreciation. The depreciation rate differs from one component to another one.
- Two cases:
  - You are the owner of a whole building, then you can apply the depreciation per component according to the technical life span of the component (from 15 years, 6,67% (e.g. lift) to 80 years, 1,25% (structure). The land can't be depreciated.
  - You are the owner of few dwellings dispersed in several multi-family buildings (e.g. one or two apartments), then a general depreciation rate is applied (between 1,25% and 2% per year of the total acquisition price).
- There is no tax break or accelerated depreciation for energy efficiency investments.
- The difference between maintenance and extraordinary maintenance is subject to controls of the tax administration.

### The analysis of building requirements and planning code in France show:

- Outdated domestic heat generation equipment in existing residential buildings must be replaced according to the existing standards (CSTB agreements).
- Building envelope components of new residential buildings must comply with minimum standards (component specific U-values or maximum energy demand for the whole building) defined in the so-called Réglementation Thermique (RT2012).
- In case of modernization of a whole housing building, the new components of the existing building must comply with the maximum energy demand for the whole building prescribed in the "Loi de transition énergétique" to get the corresponding eco-loan or special financing (a carrot without stick policy). There is no mandatory legal technical requirement for retrofitting.
- During the past decades, as in many other European countries the emphasis of the Energy efficiency regulatory regime shifted from basic health (e.g. ventilation) and safety issues (fireguard regulations) to environmental issues (energy efficiency and CO<sub>2</sub> emissions). The new legislation about asbestos has a deep financial impact on modernization and extraordinary maintenance budgets.