# New mandatory affiliation to the health insurance in France

## Health insurance coverage is compulsory from 1st January 2016

From 1st January 2016 on, all the employers of the private sector will have to set-up minimal health insurance coverage for all their employees. The companies which already have a health insurance plan must ensure that they are compliant with the new legal requirements.

## The contract must be collective

The contract has to be **collective**, which means that all of the employees of the company must benefit from the health insurance coverage. However, the employer can set up several different health insurance contracts provided that there is only one contract per "objective category" of staff within the company.

The main staff categories that are considered "objective" by the French Law are:

- Executives (AGIRC contributors) and non-executives.
- Employees whose remuneration level is defined in reference to the annual Social Security threshold, which is called "Plafond Annuel de la Securité Sociale" or "PASS".
  (For example, an "objective category" may concern only the employees whose annual remuneration is higher than twice the PASS, within the limit of seven times the PASS).

Some other criteria can be used (e.g.: categories referenced in the collective agreement…), but in this case, it is necessary to prove that all the employees belonging to this category are indeed in an identical situation.

It is also possible to combine several criteria, for example: executives whose remuneration exceeds 3 times the PASS.

The employer's contributions must be set at a rate or for a fixed amount to be identical for all the employees of the same "objective category" (except for the part-time employees or apprentices – in case their employee's contribution equals more than 10% of their gross salary, the employer has to bear 100% of the contribution).

**This obligation can be waived**, but it must be on the initiative of the employee only:

- Refusal of the employee to be affiliated to the health insurance at the moment when the health insurance scheme is implemented within the company;

- Situations when the employee is already covered as a dependent by the mandatory health insurance plan of his/her spouse;

- Some situations specified by the Unilateral Decision of the Employer ("DUE" in French) and the collective agreement.
For example: request of the employee who has a fixed-term job contract for less than 12 months, request of the employee who benefits from an individual health insurance until it ends, etc.

Any employee who requests the affiliation exemption will have to provide the appropriate justification each year (except in the case of an exemption related to the implementation of the scheme). In case of a Social Security audit, if the employer cannot provide this justification for the exempted employees, the health insurance scheme will not be qualified anymore for the exemption of social and fiscal charges on all of the employees of the company.

Please note that the rules are different for the supplemental pension and death and disability insurance. Indeed, those two contracts can be limited to one "objective" category and therefore not cover the entire staff (unless the contract is mandatory due to the collective agreement).

The contract has to meet the criteria of the "responsible" and "solidary" contracts, in particular with regards to the minimum and maximum coverage offered (French "tunnel de guarantees").

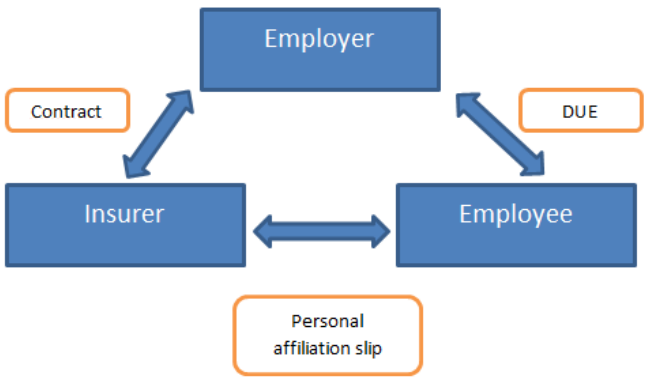
The health insurance contract must cover several guarantees, called Healthcare Basket (in French: "panier de soins"): coverage of the copayment for doctor's consultations, reimbursement of medications, laboratory and pharmacy fees, hospital daily costs, reimbursement of optical and dental fees within predefined limits and under certain conditions. The employer has to ensure at least 50% of the funding of the mandatory coverage.

The collective agreement of the company can also stipulate some minimum mandatory guarantees.

Besides the core collective coverage, the contract can provide options for superior guarantees which can be individually subscribed by each employee. In this case, the extra-cost due to these options has to be fully supported by the employee.

## Formalities for the set up

The health insurance is set up in the company through a tripartite agreement.




A specific formalism must be respected for the set-up of the health insurance within the company, notably with the signature of the insurance contract, the individual affiliation forms and the DUE (Unilateral Decision of the Employer by which the scheme is usually set-up).

Here is an overview of the main steps:

1. The company receives the specific and general dispositions of the insurer, and sends back a copy of these documents signed by the legal representative for acceptation.

2. The DUE is drafted by the employer (possibly with the assistance of the broker); it specifies the split of the contributions for the employer and the employee and indicates the potential affiliation waivers on the initiative of the employees. The employees must also sign the DUE or a sign-off sheet.

3. After they filled up and signed their individual affiliation forms, the employees must receive a document regarding the specific dispositions and an information note. They have to sign a receipt of remittance to be kept by the employer, indicating that they received this information.

4. When a new employee is hired by the company, the employer will have to provide him with the specific dispositions and the information note of the contract, as well as a copy of the DUE, and the employee will have to sign a receipt of remittance.

**If one of these obligations is not met (in particular the formalism), the employer's contributions will be considered as a benefit in kind, and therefore liable to social and fiscal charges in case of a Social Security audit.**

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