

Monaco

EY contacts:

Nice/Monaco GMT +1

EY Societe d'Avocats
400 Promenade des Anglais
BP 33124
06203 Nice Cedex 3
France

Main contact

Géraldine Garcin-Peiffert (EY Private Tax & Legacy)
+33 4 97 18 81 06
Fax: +33 1 58 47 50 73
geraldine.garcin-peiffert@ey-avocats.com

Executive contacts

Pierre-André Lormant
+33 4 91 23 99 08
Fax: +33 1 58 47 50 73
pierre-andre.lormant@ey-avocats.com

Pierre Mangas (EY Private Tax & Legacy)
+33 1 55 61 15 82
Fax: +33 1 58 47 24 15
pierre.mangas@ey-avocats.com

Immigration contact:

Géraldine Garcin-Peiffert
+33 4 97 18 81 06
Fax: +33 1 58 47 50 73
geraldine.garcin-peiffert@ey-avocats.com



1. Income tax

Monegasque nationals and foreign nationals residing in Monaco, with the exception of French nationals, who are regulated by the 1963 bilateral tax treaty between France and Monaco, are not liable for income tax. However, the absence of income tax for individuals only relates to activities carried out and persons who are genuinely established in Monaco. This does not affect rules applied by other states.

2. Other taxes

2.1 Wealth tax

Wealth tax does not apply in Monaco, except for French assets.



2.2 Property tax

Property tax is not levied in Monaco.

2.3 Inheritance and gift taxes

Inheritance and gift taxes apply only to assets located in Monaco or with a situs in Monaco, regardless of the domicile, residence or nationality of the deceased person or donor (subject to the provisions of the tax treaty between France and Monaco of 1 April 1950).

The standardization of international succession rules applicable in the European Union, introduced by the European Regulation (EU) no. 650/2012 dated 4 July 2012 and entered into force 17 August 2015 (except in England, Ireland and Denmark, which have not ratified this regulation) appears to have served as a powerful catalyst for the declaration on 28 June 2017 of Monegasque Law no. 1448 on private international law, making it possible to anticipate the law applicable to successions.

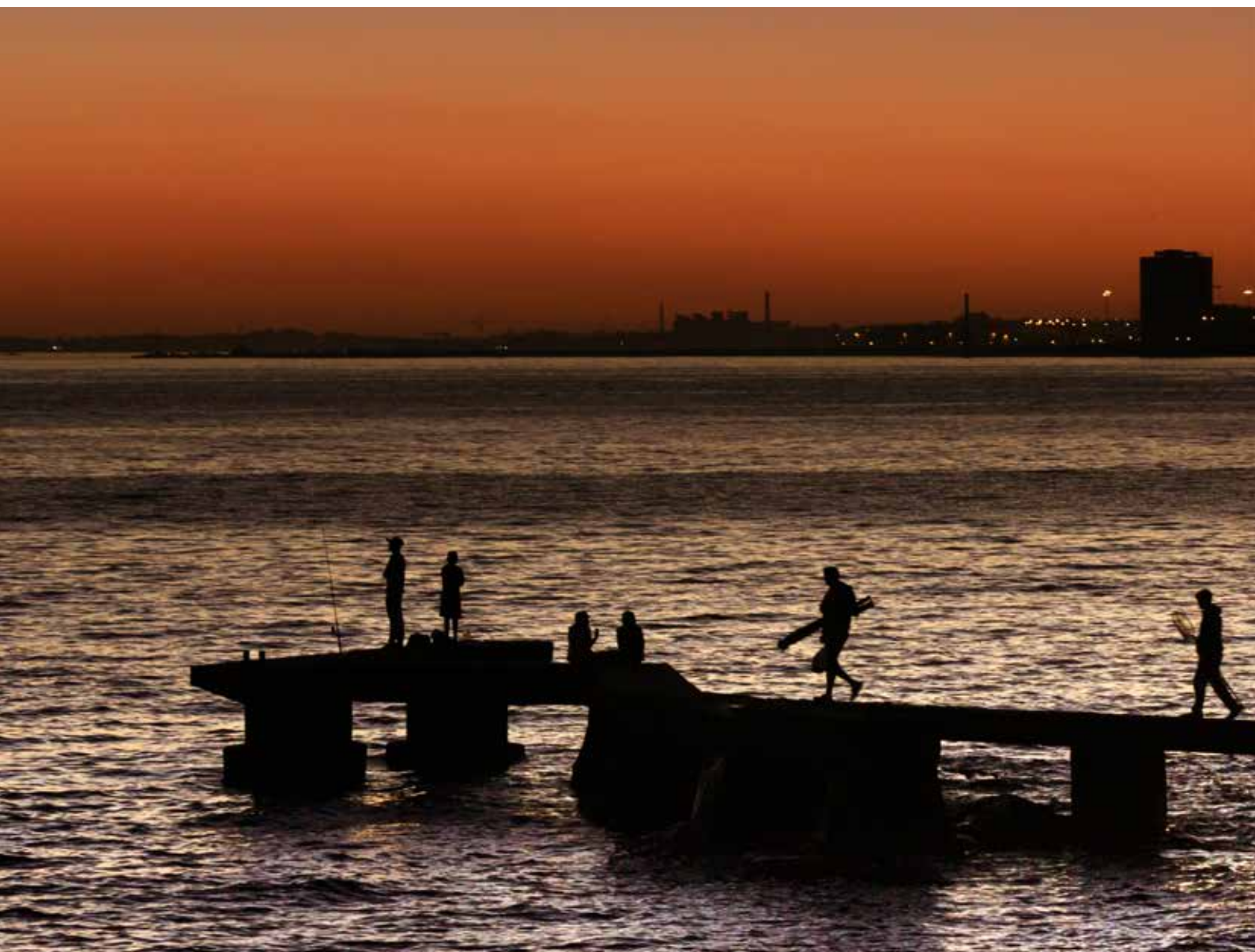
The Monegasque Law dated 28 June 2017 provides numerous specifications, including the criteria for determining nationality and domicile, the jurisdiction of the Monegasque courts, the rules of recognition and performance of foreign judgments and foreign public deeds, as well as provisions on the scope and recognition in Monaco of trusts established outside of Monaco. One of the important measures of the Monegasque private international law reform is the possibility to choose the law applicable to the succession, which facilitates new ways to organize the succession from both a civil law and a tax law standpoint.

The principle of a single law applicable to an entire succession has replaced the dual regime which distinguished immovable succession, governed by the law of the State in which the property is located, and movable succession, which is attached to the deceased and governed by the law of the State of his/her last domicile or by the law of the State of which the deceased was a citizen.

2.4 Monegasque inheritance and gifts duties' rates

The tax rates depend on the nature of the relationship between the deceased person or donor and his or her heir or donee. The following are the rates:

- No tax for legacy between spouses or for children



- ▶ Between partners of a civil union agreement: 4%
- ▶ Between siblings: 8%
- ▶ Between uncles and aunts, and nephews and nieces: 10%
- ▶ Between other relatives: 13%
- ▶ Between unrelated persons (including charities and corporate entities): 16%

Law No. 1.481 of 17 December 2019, relating to civil union agreements, recognizes two forms of civil union agreements:

One for couples living together: a shared life agreement applicable irrespective of sexual orientation

The other one for family members cohabiting together: cohabitation agreement

This law provides for a new rate of 4% applicable to transfer by gift or inheritance between partners of a shared life agreement, subject to certain conditions.

The law came into force on 27 June 2020, six months after its publication in the Official Journal of Monaco on 27 December 2019.



2.5 Tax on income from savings

An agreement between Monaco and the European Union (EU), signed in Brussels on 7 December 2004, sets out measures equivalent to those in European Directive 2003/48/CE of 3 June 2003, the so-called “savings directive.” However, this directive was repealed in November 2015.

2.6 Transfer tax

Sales of real estate located in Monaco, shares in a Monegasque SCI (Société Civile Immobilière) and shares in other types of companies are subject to transfer tax.

2.7 Trusts

Trust incorporation or trust transfer in Monaco is subject to a proportional right of registration varying according to the number of successive beneficiaries of the trust. The capital of the trusts represented by Monegasque securities is subject to a reduced proportional duty in consideration of the number of successive beneficiaries of the trust.

According to the Monegasque Law n°1.381 of 19 June 2011, any foreign entity owning a Monaco property has to appoint a Monaco tax representative (duly authorized in a specific list by Monaco Authorities) and file a yearly declaration of change (or non-change) of beneficial owner. Indeed, the change of a beneficial owner entails the payment of a 4.5% transfer tax assessed on the fair market value of the Monaco property.

Since the law is quite recent, there have been various questions with regard to the scope of the law. In this context, the Monaco tax authorities have previously provided an official position regarding the application of said law and the definition of “change of a beneficial owner,” which may be summed up as follows:

1. A change in the beneficial ownership of a Monaco property, although minor, entails the payment of the 4.5% transfer duty on the entire fair market value of the property (no prorata taxation). For instance, should a shareholder transfer a 1% stake to a new shareholder, the offshore entity will nevertheless be liable for the transfer duty on 100% of the value of the underlying asset(s).
2. The addition/withdrawal of a beneficial owner is considered as a change in the beneficial ownership of the property and therefore entails the payment of the 4.5% transfer duty.
3. If the identity and the percentage of ownership of the ultimate business owner (UBO) is not modified, and if there has not been any change in the legal personality of the owning entity, changes in the intermediary structure (such as between the UBO and the property holding company) do not entail the payment of the transfer duty.

To be noted that to reflect leading European practices, Monaco has just published Law n° 1.503, dated 23 December 2020 reinforcing its system for the fight against money laundering, terrorist financing and corruption. This new law corresponds to the transposition of the 5th European Directive. It has numerous and significant consequences for all Monegasque economic players and their clients. In particular: the expansion, under certain conditions, of access to the registers of beneficial owners and trusts, the creation of a new “register of bank accounts and safes” listing information relating to the opening, modification and closure of bank accounts, as well as the rental of safes by financial institutions. In addition, the new law strengthens due diligence obligations by tightening controls and the formalism of KYC procedures for financial institutions in particular, and business relations and transactions involving “high-risk states or territories.” These new measures will soon have to be completed and clarified by means of sovereign ordinances and ministerial orders.

3. Double-tax treaties and other agreements

3.1 Double-tax treaties

Monaco has entered into double-taxation treaties, some of which relate to inheritance tax, with the following countries: France, Guernsey, Liechtenstein, Luxembourg, Mali, Malte, Mauritius, Qatar, St. Kitts and Nevis, and Seychelles.

3.2 Other agreements

Monaco has ratified the Convention on Mutual Administrative Assistance in Tax Matters, implemented the Standard for Automatic Exchange of Financial Account Information in Tax Matters developed by the Organisation for Economic Co-operation and Development (OECD) and G20 countries, as well as automatic exchange of country-by-country reports under the OECD/G20 base erosion and profit shifting (BEPS) project. The convention entered into force for Monaco on 1 April 2017.

The agreement on the automatic exchange of information signed on 12 July 2016 between Monaco and the EU enables Monaco to comply with international standards on tax transparency that are in accordance with the OECD Common Reporting Standard. Consequently, Monaco and the EU Member States are collecting information on the financial accounts of nonresidents since 1 January 2017 and automatically exchange this information since 2018.

Monaco has also negotiated with partner jurisdictions regarding movement to automatic exchange. A partner jurisdiction is a jurisdiction with which Monaco had not yet undertaken to exchange information. The list of partner jurisdictions is published by ministerial decree and is updated as new jurisdictions become partners. Currently, 24 jurisdictions are considered partner jurisdictions.

The Multilateral Competent Authority Agreement, signed on 15 December 2015, confirmed the commitment of Monaco to implement automatic exchange of financial account information in time to commence exchanges as of 2018. Monaco was the 76th jurisdiction to sign this agreement.

Financial information is being collected from 1 January 2016 from approximately 70 jurisdictions for automatic exchange between authorities in 2019.