



The taxation of business

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In view of Monaco's small size and infrastructure, the business sector tends to be dominated by service providers in the financial world, such as banks, fund and asset management companies and business consultants. Inevitably there are plenty of shops and retailers. There are lawyers, accountants, trustees and corporate managers and there is a certain amount of light industrial activity and manufacturing.

Business profits tax ("profits tax")

Profits tax applies to certain businesses carried out in Monaco, whether by an individual or by a company. It applies to:

- any business which carries out an industrial or commercial activity on Monegasque territory, if more than 25% of the turnover of the business comes from activities directly or indirectly conducted outside Monaco; or

- any company whose income derives from the transfer or licensing of intellectual property rights.

Profits tax is currently levied at a flat rate of 33.33%.

A commercial or industrial activity

Commercial activities are defined fairly narrowly for the purposes of profits tax.

Professional advice should be sought on whether a proposed business activity comes within the scope of the tax.

It is important to note that personal business activities (eg running one's own group of companies, or running a portfolio of one's own shares) is not strictly a commercial activity, hence it will not normally give rise to any profits tax. It is when the activity extends to trading or engaging in commerce that it will be regarded as commercial and hence potentially taxable.

An industrial activity is generally understood as meaning a commercial activity to which is added an element of manufacture, refinement or finishing of



products or the transportation of such products.

Given that these definitions tend to focus on goods rather than services, many services provided by Monaco businesses fall outside the scope of profits tax.

Taxable profit

In the calculation of taxable profits (or losses) arising, the following are left out of account, for the purposes of profits tax:

- Permanent establishments outside Monaco
- Complete cycles of commercial operations (such as the purchase and resale of goods) habitually realised outside Monaco
- Transactions done outside Monaco by dependent agents, if such agents either have and habitually exercise outside Monaco the power to conclude contracts on behalf of the Monaco business or if they hold a stock of goods outside Monaco for the purpose of meeting orders for those goods which they have obtained.

It should be noted that these rules work both ways. While a Monaco business can leave out of account profits from these three operations, a foreign business would be subject to profits tax, if any of these three operations were conducted within Monaco. Once again, appropriate professional advice should be sought on whether these territorial exemptions apply in a given case.

Headquarters / administrative / representative offices

Monaco is home to many of these offices, usually set up as *bureaux administratifs* (that term having a purely fiscal connotation), which are set up to provide certain ancillary functions to a sister company or group of companies established elsewhere. Since these offices provide only inter-group services, it is generally possible to agree a ruling whereby Profits Tax is levied on a defined percentage of the office's local running expenses. This percentage is typically within 8% and 30%, thus reducing profits tax to a tax at a rate of 2.66% and 10% on the local Monaco running costs (ie there is no tax on actual profit for none can be attributed to an administrative/HQ function).

Deductions and reliefs

Although there are inevitably specific rules governing deductibility of expenditure for tax purposes, they mostly follow generally accepted principles. Given the predominantly service based nature of the business sector in Monaco, remuneration of directors and employees will often be the biggest single item of cost. Of course, such remuneration is tax free in Monaco in the hands of the recipient and so the overall tax burden is often relatively light. Certain restrictions apply however such that if very considerable remuneration is paid away within a taxable business, the entirety of the remuneration may not be deductible for profits tax purposes.

VAT

Although Monaco is a separate sovereign state which is not a member of the European Union, it levies VAT in the same way and at the same rates as France.

Social security and related costs

Any employee (including director employees) must be declared and hold a work permit to work in the Principality. The employee's salary will be subject to a variety of social security/pension deductions which must be made by the employer at the time of payment of the remuneration. These deductions are subject to different rates and different ceilings so a specific calculation must be made dependent upon the person's salary and the person's status in the business.

Social security/State pension will be due by owner/managers in very limited form. It is not levied as a percentage of remuneration but by reference to certain categories of choice such that the annual social security/State pension obligations for owners and senior directors is almost nominal.

Tax treaties

Monaco has had until recently no Double Tax Treaties with any country, save France. But that is changing and Monaco has signed a number of DTTs (eg with Luxembourg).

Withholding tax

There is no withholding tax in Monaco, in the context of profits tax.

Conclusion

Monaco can be an ideal location for international businesses and they tend to fall into two categories. First, those which need to offer their senior staff especially attractive remuneration packages where such senior staff live in the tax free environment of Monaco in so far as their remuneration is concerned (but the advantage extends to anything beyond their remuneration). Second, those which are owned and managed by individuals who wish to live and work in a low tax environment. If Monaco profits tax exists it is to be remembered that income and capital gains taxes do not exist in Monaco, hence an individual who derives Monaco source income from a business activity will not pay income tax on it in Monaco, nor will he pay tax on any gains he makes .

How can we help?

Our office has existed in the Principality since 1979. We are the only English based international law firm in the Principality. Between our Monaco, Dubai and London offices we have the strength and depth to offer a full legal service to both local and international clients. We aim to advise our clients in an efficient and cost effective manner and with a particular emphasis on commerciality and confidentiality.

We speak a number of languages in Monaco including English, French and Icelandic. We have a client base which includes entrepreneurs, entertainers, financial or banking services companies, fund managers, sporting personalities and international families from many jurisdictions.

Beyond its London, Dubai and Monaco offices LG has strong relationships with law firms throughout the US, Asia and around the world. These relationships enable us to advise comprehensively on any matters with an international dimension.

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