

No. 9438

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**FRANCE**  
and  
**MONACO**

**Convention on taxation (with protocol of signature and exchange of letters). Signed at Paris on 18 May 1963**

*Authentic text : French.*

*Registered by France on 26 February 1969.*

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**FRANCE**  
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**MONACO**

**Convention fiscale (avec protocole de signature et échange de lettres). Signé à Paris le 18 mai 1963**

*Texte authentique : français.*

*Enregistrée par la France le 26 février 1969.*

[TRANSLATION — TRADUCTION]

## CONVENTION<sup>1</sup> ON TAXATION BETWEEN FRANCE AND THE PRINCIPALITY OF MONACO

The Government of the French Republic and His Serene Highness the Prince of Monaco, referring to the Treaty of 17 July 1918, and more particularly to article 6 thereof, have agreed as follows :

### TITLE I

#### PROVISIONS APPLICABLE TO MONEGASQUE COMPANIES, PARTNERSHIPS AND ENTERPRISES

##### *Article 1*

The Government of H.S.H. the Prince of Monaco undertakes to introduce in the Principality a tax on profits realized from 1 January 1963 by the enterprises referred to in article 2 below.

Subject to the provisions of articles 3 to 6 and 9 of this Convention and to such adaptations as may be found necessary by agreement because of the special situation of the Principality, the said tax shall be assessed and collected on the same terms as the French tax on profits of companies and bodies corporate.

The assessment and collection of the tax and disputes relating to the tax shall be within the exclusive competence of the Monegasque administration. The proceeds of the tax shall accrue in their entirety to the Treasury of the Principality.

##### *Article 2*

The following shall be liable to the tax introduced under article 1:

- (a) Enterprises, of whatever form, which engage in industrial or commercial activities on Monegasque territory, if at least 25 per cent of their turnover results from operations conducted directly or through an intermediary outside Monaco ;
- (b) Companies, of whatever kind, whose activities consist in collecting the proceeds of : The sale or licensing of patents, trade marks, or manufacturing processes or formulas ; or literary or artistic copyrights.

<sup>1</sup> Came into force on 1 September 1963, i.e., the first day of the month following the exchange of the notifications signifying the approval of the Convention according to the constitutional procedures in force in each of the two countries, with retroactive effect from 13 October 1962, in accordance with article 26.

### Article 3

1. In the assessment of the profits tax introduced under article 1, the remuneration of the director or the most highly paid officer of the enterprise shall be deductible from the taxable profits only in so far as it represents actual work and up to a maximum amount, in enterprises and companies having a turnover not exceeding 500,000 francs in the case of service enterprises and 1 million francs in the case of other enterprises, equal to two-and-one-half times the ceiling wage used as a basis for calculating social security contributions.

For enterprises having a turnover exceeding 500,000 francs or 1 million francs in the cases indicated above, the deductible remuneration shall be increased, for every additional 500,000 francs of turnover or fraction thereof in the case of service enterprises and for every additional 1 million francs of turnover or fraction thereof in the case of other enterprises :

- By a sum equal to half the above-mentioned ceiling wage for the first seven additions or fractions thereof ;
- By a sum equal to three-quarters of the ceiling wage for the eighth and each further such addition or fraction thereof.

The amount may be further increased by not more than 15 per cent by way of agreed allowance for the personal expenses incurred in discharging his functions by the director or officer concerned.

2. The deductible remuneration of other directors or officers shall in no case exceed 75 per cent of the remuneration and agreed allowance specified in paragraph 1.

3. For the purposes of the foregoing provisions, the following shall be considered directors :

- In single proprietorships, the proprietor himself ;
- In partnerships, the partners ;
- In special partnerships (*associations en participation*), the partners, whether they are managing partners or not, even if they do not bear unlimited liability ;
- In private limited companies (*sociétés à responsabilité limitée*) and limited share partnerships (*sociétés en commandite par actions*), the managers ;
- In joint-stock companies, the chairman of the board of directors, the managing director, the acting managing director and any director assigned special functions.

“ Officers ” for the purposes of the same provisions shall be deemed to mean staff members holding managerial or administrative posts entailing responsibility or some measure of individual initiative.

#### Article 4

Payments made to persons residing in Monaco as fees, royalties, brokerage fees, commissions not of the nature of wages or salaries or literary or artistic copyright dues shall be deductible for the purposes of the tax only on the following two conditions :

1. That there is not relationship of dependence between the beneficiary and the payer enterprise ;
2. That the latter produces sufficient evidence to establish that the act or undertaking in respect of which the payments are made is genuine and cannot be regarded as concealing a realization or transfer of profits.

#### Article 5

1. The profits tax introduced under article I shall be levied at the rate of 25 per cent in the first year, 30 per cent in the second year, 35 per cent in the third year and 40 per cent in the fourth and subsequent years.

2. However, when the results of applying the rate of 35 per cent are known, a commission specially established for the purpose shall review its effects on the Monegasque economy in order to estimate the consequences of raising the rate to 40 per cent.

The commission shall consist of an equal number of representatives of the two Governments. The chairmen of two delegations shall if necessary appoint a jointly selected expert to draw up a report on the problems referred to the joint commission for its consideration.

#### Article 6

1. The foreign transactions tax (*droit de sortie compensateur*) introduced by Sovereign Order No. 120 of 24 December 1949 shall continue to be levied in the manner specified in the Order, but from 1 March 1963 it shall be extended to all services rendered or made use of outside Monaco.

On the other hand, it shall no longer be levied on enterprises which in 1962 effected less than 25 per cent of their turnover outside Monaco and which they are not liable to the tax provided for in article 1.

2. The foreign transactions tax paid during a financial year shall be regarded as advance payment against the amount of tax payable in respect of profits realized during that year, in so far as the former tax is paid in respect of operations conducted by enterprises liable to the tax introduced under article 1.

Where the foreign transactions tax paid exceeds the total sum due as profits tax, the excess shall not be returned to the taxpayer, but shall consti-

tute a credit to be set off, where appropriate, against the profits tax due for the following five financial years.

## TITLE II

### PROVISIONS APPLICABLE TO FRENCH INDIVIDUALS AND BODIES CORPORATE

#### *Article 7*

1. Individuals of French nationality who transfer their domicile or residence to Monaco or who cannot prove that on 13 October 1962 they had been habitually resident in Monaco for five years shall be liable in France to the personal income tax and the complementary tax on the same terms as if they had their domicile or residence in France.

However, the provisions of the preceding paragraph shall not apply to the following :

- (a) Persons forming part of or dependent on His Serene Highness's Household;
- (b) Officials, officers and employees of the public services of the Principality who established their habitual residence in Monaco before 13 October 1962.

2. The provisions of paragraph 1 above notwithstanding, the individuals of French nationality formerly domiciled outside metropolitan France who on 13 October 1962 had had their habitual residence in Monaco for less than five years shall first become liable in France to individual income tax and, where appropriate, complementary tax, in respect of their income for 1965.

#### *Article 8*

Payments of the kind referred to in article 4 made by individuals or bodies corporate liable to taxation in France to individuals or bodies corporate resident or established in Monaco shall be deductible from taxable profits for the purposes of the French tax only on the terms specified in article 4.

## TITLE III

### MEASURES TO AVOID DOUBLE TAXATION AND PREVENT FRAUD

#### *Article 9*

1. Where the conditions fixed in the commercial or financial relations maintained by a French enterprise with any individual or body corporate

resident or established in Monaco cannot be considered normal, the operations shall be reinstated in the accounts of the French enterprise, for the purposes of the turnover tax and the individual income tax or company tax and any other taxes that may be leviable, in the form in which they should properly have appeared. This shall apply, in particular, where the French enterprise grants to or imposes on a Monegasque enterprise in whose capital or management it participates conditions different from those which would result from the normal operation of the market or from the application of the usual service rates.

2. Where the conditions fixed in the commercial or financial relations maintained by a Monegasque enterprise with any individual or body corporate resident or established in France cannot be considered normal, the operations shall be reinstated in the accounts of the Monegasque enterprise, for the purposes of the profits tax, the turnover taxes, the foreign transactions tax and any other taxes, in the form in which they should properly have appeared. This shall apply, in particular, when the Monegasque enterprise grants to or imposes on a French enterprise in whose capital or management it participates conditions different from those which would result from the normal operation of the market or from the application of the usual service rates.

#### *Article 10*

1. Subject to the production of due evidence, the amount of tax deducted at the source in France in respect of income from securities and industrial, literary and artistic property accruing to the enterprises and companies referred to in article 2 above shall be set against the amount of the Monegasque profits tax on such income.

2. Where interest on mortgage debts in respect of immovables situated in French territory accrues to a Monegasque enterprise or company as mortgagee, the tax levied in France under article 13 below shall subject to the production of due evidence be set against the amount of the profits tax leviable on such interest.

#### *Article 11*

1. Where persons domiciled in France are liable in respect of profits realized in Monaco to the tax introduced in the Principality under article 1 of this Agreement, the amount of such tax shall be regarded as a credit deductible from the French individual income tax on such profits.

2. The provisions of the preceding paragraph shall also apply to the persons referred to in article 7, paragraph 1, first sub-paragraph.

*Article 12*

In order to enable Monegasque wage-earners and pensioners resident in France to enjoy, in the calculation of the individual income tax, the credit to which they would be entitled if they were working in French territory or if their pension was of French origin, and as a counterpart to the employers' payroll tax (*versement forfaitaire*) provided for in article 231 of the French General Tax Code, for which Monegasque employers and pension payers are not liable, the Government of the Principality shall pay a fixed sum of 900,000 francs annually to the French Treasury.

For the year 1962 this sum shall be remitted in a single payment. For 1963 and succeeding years it shall be paid in instalments of 225,000 francs at the end of every quarter.

*Article 13*

The individual income tax shall be payable in France on interest from mortgages in respect of immovables situated in French territory even if the mortgagee has his habitual domicile or residence in Monaco.

*Article 14*

Individuals who are nationals of either of the two States shall enjoy in the territory of the other, for the purposes of the tax laws, the same advantages in respect of family status and responsibilities as nationals of the other State.

## TITLE IV

## MISCELLANEOUS PROVISIONS

*Article 15*

Turnover taxes and replacement taxes shall be applicable in the Principality on the same basis and at the same rates as in France.

*Article 16*

Spirituous liquors, wines, ciders, perries and hydromels and grapes and cider and perry fruits shall be subject in the Principality to the same regulations as in France, and shall be taxed on the same basis and at the same rates.

Taxable produce consigned from France to Monaco or from Monaco to France shall require transport permits issued in accordance with the rules applicable to the transport of such produce in France.

The Monegasque economic regulations relating to alcohol shall be identical with the French regulations.

*Article 17*

The total proceeds of the turnover taxes, replacement taxes and beverage taxes referred to in articles 15 and 16 above which are collected in the two Contracting States, except that part which represents local taxes, shall be divided between the two Governments in a manner to be agreed between them.

*Article 18*

The French guarantee regulations relating to finished or unfinished gold, silver or platinum work shall be applicable in the Principality of Monaco.

The office of the French city of Nice shall be responsible for all assay, hall-marking and control operations.

Work from the Principality shall be submitted to the Nice office to be marked, after determination of its title, with the hall-marks used in France, but with the addition of a distinctive sign or mint-mark to be used only for such work. The mint-mark chosen for the Monaco office is the sign  $\mu$ .

Guarantee dues shall be collected by the collector of taxes at the Nice office for the account of the Treasury of the Principality. Assay fees shall be credited to the French administration as if the work in question was intended for consumption in France.

Guarantee dues in respect of gold, platinum or silver work bearing the Monaco mint-mark which is sent to other countries shall be reimbursable only if the formalities required in such cases have been completed at the Nice office. In that case, the dues shall be reimbursed to the Monegasque Treasury.

## TITLE V

## ADMINISTRATIVE ASSISTANCE

*Article 19*

For the purposes of article 9 above, the competent authorities of the two Contracting States shall come to an agreement in each particular case, each Government undertaking moreover to authorize, on the request of the administration of the other State, the continuance in its own territory of investigations undertaken in the territory of that State.

The investigations in question shall be carried out under the auspices and with the co-operation of the tax administration of the State in which they take place.

*Article 20*

In order to ensure the correct application of the French individual income tax and company tax and of the tax on profits realized in the Princi-



pality, the Contracting States agree that their tax administrations shall exchange any information available to or obtainable by them under their respective laws, the reciprocal communications which they judge necessary for the above-mentioned purposes.

Such exchanges of information shall take place either as a matter of routine or on request.

Such information and any related correspondence shall be exchanged between, on the one hand, the Directorate of Taxes of the Principality, and on the other hand, the Directorate-General of Taxes or, as appropriate, the regional tax commissioners or the directors of taxes of the *départements* concerned.

#### Article 21

For the purposes of the preceding article and in order to assist the French administration in checking individual income tax returns and company tax returns filed by individuals or bodies corporate domiciled in France, the Government of the Principality undertakes to communicate to the French administration, as a matter of routine :

1. From entries in the General Register, particulars relating to immovable property owned in Monaco by such individuals and bodies corporate, as respects both the marketable value resulting from the purchase price and the rental income resulting from registered leases, and particulars relating to material and immaterial movable property owned by the said individuals or bodies corporate ;
2. Particulars of turnover as declared by such individuals and bodies corporate or as determined by the tax authorities of the Principality ;
3. Particulars of sums received by such individuals or bodies corporate as salaries, wages, fixed or proportional emoluments, allowances, shares of profits, brokerage fees, commissions, pensions, annuities, royalties, copyright dues, directors' percentages, dividends, interest, income and other returns.

The French Government, for its part, in order to facilitate the collection of the profits tax in Monaco, undertakes to communicate to the Monegasque administration, as a matter of routine :

1. Particulars relating to the value of business transactions between Monegasque nationals and French nationals of which the French tax administration has knowledge ;
2. Particulars of sums received as allowances, shares of profits, brokerage fees, commissions, royalties, copyright dues, directors' percentages, dividends, interest, income and other returns by industrial or commercial enterprises and companies whose activities consist in collecting the proceeds of

industrial, literary or artistic property and which are established or have their headquarters in Monaco.

### *Article 22*

1. The Government of the Principality shall report to the French administration as a matter of routine the amounts of any proceeds of Monegasque, French or foreign securities or of debt-claims, deposits or surety-bonds received or collected in Monaco by persons domiciled in France from individuals or organizations whose major or subsidiary business it is to pay such proceeds. The same shall apply to proceeds of securities, debt-claims, deposits and surety-bonds paid direct by Monegasque companies to their bondholders or shareholders domiciled in France.

Individual statements giving the last name, first names and actual domicile of the persons referred to in the preceding paragraph, the total proceeds received by them, the nature and number of the securities from which such proceeds are derived and the date of the operation and title of the paying establishment shall be sent annually by the Monegasque Directorate of Taxes to the French administration.

The Government of the Principality shall furnish the same information with regard to proceeds of securities, debt-claims, deposits and surety-bonds entered to the credit of accounts opened in the name of the same persons.

It shall report to the French administration any breaches of the obligations incumbent upon them with respect to the application of the foregoing provisions committed by persons and companies engaging in banking or credit operations in Monaco which have their headquarters in France.

2. The French Government shall furnish the Monegasque administration under the same conditions with any information in its possession regarding the collection in France on behalf of or entry in France to the credit of enterprises established in Monaco of income of the kinds referred to in the first and third sub-paragraphs of paragraph 1 above.

3. The Government of the Principality shall review before 1 July 1963, jointly with the French administration, the situation of Frenchmen holding a certificate of domicile issued in application of the Agreement of 23 December 1951 in order to determine whether the persons concerned have in fact maintained their habitual residence in Monaco. The certificate of domicile shall henceforth be valid for a period of no more than three years. It shall be the responsibility of the holder of each such certificate to have it extended by the Monegasque administration, furnishing proof of his residence in Monaco.

If, moreover, the French administration receives information justifying the presumption that a person holding such a certificate of domicile no longer actually has his residence in Monaco, it may request the Monegasque administration to call upon the person in question to prove such residence and if he

cannot, to withdraw his certificate, if necessary with effect from the day on which this condition ceased to be fulfilled.

#### *Article 23*

The two Governments undertake, on a basis of reciprocity, to lend each other support and assistance in the collection of all taxes, surtaxes, interest, costs and fines in accordance with the rules of their own legislation.

Notices shall be served and proceedings and measures of execution instituted upon production of official copies of the writs of execution accompanied as appropriate by copies of the texts of final judicial decisions. Tax debts to be recovered shall enjoy in the country of recovery the same safeguards and privileges as tax debts in that country.

In the case of tax debts which have been challenged by way of administrative appeals lodged in due form, the tax administration of the creditor country may on production of a writ of execution request the tax administration of the other country to take such interim measures as its laws permit.

#### *Article 24*

The French tax administration and the Monegasque tax administration shall reach agreement with a view to the avoidance of double taxation in cases not provided for in this Convention, and in cases where the interpretation or application of this Convention gives rise to difficulty or doubt.

If they fail to reach agreement, the matter shall be referred, at the request of either Party, to the joint consultative commission provided for in the following article.

#### *Article 25*

The Parties shall establish a joint consultative commission, which shall meet at the request of either Party.

This commission shall be composed of representatives of the administrations concerned of each State.

The commission's task shall be to examine any difficulties arising in the interpretation or application of this Convention which cannot be settled through the diplomatic channel and to propose a solution to the Parties.

#### *Article 26*

This Convention shall be approved in accordance with the constitutional procedures in force in each of the two countries. It shall enter into force on the first day of the month following the exchange of notes indicating that both Parties have complied with these provisions.

Subject to the special provisions in that connexion which are expressly set forth in the Convention, it shall have effect retroactively from 13 October 1962, in such a way that there is no break in continuity in the tax treatment of taxpayers or the treatment of any other questions dealt with in Titles II and III of the previous Convention of 23 December 1951.

This Convention shall remain in force unless denounced at six months' notice, by one of the Contracting Parties.

DONE at Paris in duplicate on 18 May 1963.

For the Government  
of the French Republic :

F. LEDUC

For His Serene Highness  
the Prince of Monaco :

P. BLANCHY

## PROTOCOL OF SIGNATURE

On signing the Tax Convention of today's date, the signatories have made the following concordant declaration, which forms an integral part of the Convention :

### I

Article 2 (a) shall be applicable to the following :

1. Sales of property, merchandise or commodities of any kind, including transfers in any form of assets, made by an enterprise established in Monaco outside Monegasque territory or for the account of persons or enterprises in France or a third country, whether delivery takes place on or outside the territory of the Principality.

However, retail cash sales made on the spot in Monaco, shall in no case be deemed to be made outside Monaco within the meaning of article 2 (a) ;

2. Other operations effected by an enterprise established in Monaco, where the service rendered, the right transferred or the object leased is used or put to effect outside Monaco.

The following operations, *inter alia*, shall be deemed to be effected outside Monegasque territory :

- Insurance against risks arising in France or abroad ;
- Financing, banking or credit operations, where the service rendered is used in France or abroad ;

- Transport to or from France or abroad ;
- The exploitation, concession or leasing in the same countries of tangible or intangible assets such as plant, equipment, patents, rights, formulas, inventions and trade marks.

## II

For the purposes of article 2 the term “ intermediaries ” shall be deemed to include any individual who or body corporate which delivers outside the Principality, in their original state, products manufactured in Monegasque territory.

## III

For the purposes of articles 21 and 22, individuals who although resident in Monaco are deemed under article 7 to have their fiscal domicile in France shall be considered to be domiciled in France.

## IV

The turnover taxes referred to in article 15 shall at present be understood to be :

- The value-added tax ;
- The services tax ;
- The local turnover tax.

The French Government also takes note of the fact that the Monegasque Government has informed it :

1. That it has taken steps :
  - (a) To strengthen control over joint-stock companies and civil partnerships, in particular through a revision, to be completed before 31 December 1963, of the rules governing the establishment and operation of such companies and partnerships.
  - (b) To make a complete census to be completed by 1 September 1963, of civil partnerships having their head offices in Monaco.

The tax administrations of the two countries shall consult each other in order to determine what exchanges of information shall be provided for in that connexion ;

2. That it is willing to order the creation of certificates representing securities issued by Monegasque joint-stock companies and to regulate strictly the transfer of securities pending the issue of such certificates ;

3. That it has introduced new regulations relating to the registration of motor vehicles in Monaco.

DONE at Paris in duplicate on 18 May 1963.

For the Government  
of the French Republic :

F. LEDUC

For His Serene Highness  
the Prince of Monaco :

P. BLANCHY

## EXCHANGE OF LETTERS

### I

Paris, 18 May 1963

Sir,

Article 17 of the Tax Convention of today's date provides that the total proceeds of the turnover taxes, replacement taxes and beverage taxes referred to in articles 15 and 16 of the Convention which are collected in the two Contracting States, except that part which represents local taxes, shall be divided between the two Governments in a manner to be agreed between them.

I have the honour to inform you that the French Government proposes that this division should be carried out on the following basis :

The share due to the Principality shall be determined every year by multiplying the total yield in the two countries during the given year of the taxes subject to division by the ratio between the corrected volume of business completed during the same year in the territory of the Principality and the volume of business completed during the same year in the territory of both countries.

The corrected volume of business completed in the territory of the Principality shall be determined by adding to the volume of business in the Principality reduced by the amount of exports to France a sum equal to six-tenths of the reduced value in order to allow for taxes on Monegasque beverages collected in France.

The French Government therefore proposes that the formula for dividing the proceeds of the taxes referred to in article 17 of the above-mentioned Convention shall be as follows :

$$Q_m = R \times \frac{TO_m + \frac{TO_m \times 6}{10}}{TO_f + TO_m}$$

Where :

- $Q_m$  represents the Monegasque share ;
- $R$  represents the net tax yields in the two countries after deduction of tax refunds if any ;
- $TO_f$  represents the French turnover ; until the French administration is able to determine the French turnover by direct processing of all tax returns, this figure shall be obtained by multiplying the volume of business in France of the enterprises which make up the sample selected by the Economic and Financial Research Unit (SEEF) of the Ministry of Finance and whose tax returns are subjected to systematic analysis by the ratio between the total French tax yield and the total French tax yield from the said enterprises ;
- $TO_m$  represents the total amount of business completed by Monegasque taxpayers less the volume of business corresponding to exports to France.

On this last point, the French Government proposes that the Monegasque Government should adopt without delay any measures it may deem necessary to determine the exact amount of exports to France. Provisionally, and until such measures have been adopted, the volume of exports to France shall be assumed to be equal to the total tax base which would be used, in the absence of any exemption measure, in the assessment of the foreign transactions tax.

The above-mentioned division shall take place annually after publication of the statistics of revenue for the full year.

The division shall be followed by payment of the difference between the Principality's share of the proceeds of the taxes referred to in article 17 of the Convention, calculated as indicated above, and the amount received by the Principality in payment of the same taxes. If the amount thus received is greater than the Principality's share, the Treasury of the Principality shall immediately pay the difference to the French Treasury.

On the basis of the figures for the previous year, quarterly advance payments together representing four-fifths of the sums paid as provided above shall be paid at the end of each quarter. An adjustment shall be made as soon as possible after the publication of the annual revenue statistics. If the advance payments thus made prove greater than the payment due for the full year, the excess shall be set against the following quarterly advance payment or payments until it is exhausted.

Finally, the French Government invites the Monegasque Government to agree, firstly, that the above described method of division shall apply to revenue received from 13 October 1962, and secondly, that the competent

authorities of the two Contracting States shall consult together to agree on any changes in the said method of division which might prove necessary if significant modifications should be made in the laws relating to turnover taxes. The same shall apply during the transitional period if any changes should be made in the coverage or basis or rate of assessment of foreign transactions tax.

I should be grateful if you would inform me whether these proposals meet with the agreement of the Government of the Principality.

Accept, etc.

F. LEDUC

Mr. Pierre Blanchy  
Minister Plenipotentiary  
Ministry of State  
Principality of Monaco

## II

Paris, 18 May 1963

Sir,

In your letter of today's date you state the following :

[*See letter I*]

I have the honour to inform you that the Government of the Principality agrees to the foregoing proposals.

Accept, etc.

P. BLANCHY

Mr. François Leduc, Minister Plenipotentiary  
Ministry of Foreign Affairs  
Paris