

No. 9439

**FRANCE
and
MONACO**

**Exchange of letters constituting an agreement concerning
the tax status of shareholders in Monegasque
companies who are domiciled in France. Paris,
9 December 1966**

Authentic text : French.

Registered by France on 26 February 1969.

**FRANCE
et
MONACO**

**Échange de lettres constituant un accord relatif à la situation
fiscale des actionnaires de sociétés monégasques
domiciliés en France. Paris, 9 décembre 1966**

Texte authentique : français.

Enregistré par la France le 26 février 1969.

[TRANSLATION — TRADUCTION]

EXCHANGE OF LETTERS CONSTITUTING AN AGREEMENT¹ CONCERNING THE TAX STATUS OF SHAREHOLDERS IN MONEGASQUE COMPANIES WHO ARE DOMICILED IN FRANCE

I

Liberty - Equality - Fraternity

FRENCH REPUBLIC

MINISTRY OF FOREIGN AFFAIRS

Paris, 9 December 1966

Sir,

Articles 1 and 2 of Act No. 65-566 of 12 July 1965 introducing changes in the taxation of enterprises and of income from movable capital provide that persons having their true domicile or their head office in France shall be granted a tax advantage in the form of a tax credit equal to one half of the proceeds actually paid out by French companies to their shareholders. Article 3 of the Act provides that, where the proceeds distributed are paid out of profits which have not been subjected to company tax at the rate of 50 per cent — i.e., in particular, out of profits from business carried on outside France — the payment of the proceeds shall be subject to the collection in advance of a tax equal to the amount of the credit granted against such distributions.

Under article 7 of the aforementioned Act, profits made in France by foreign companies are assumed to be distributed in respect of each financial year to members not having their true domicile or their head office in France and are therefore subjected to a tax deducted at the source at the rate of 25 per cent. However, the same article provides that companies may apply for an adjustment of the deduction where the sums to which it has been applied exceed the total amount of such distributions. They may also apply for such an adjustment where they can show that the beneficiaries of the distributions have their true domicile or their head office in France and have been paid the sums corresponding to the deduction. Under article 6 of the same Act, dividends distributed by such companies to shareholders domiciled in

¹ Came into force on 23 January 1968 by the exchange of the notification signifying that the requisite constitutional procedures had been completed on both sides, in accordance with the provisions of the said letters.

France remain subject to a deduction at the source of one third of the amount of the dividends.

The application of these provisions raises certain difficulties in the case of persons domiciled, or companies constituted, in France who receive dividends distributed by companies having their head office in Monaco and who are subjected to both the French company tax and the profits tax introduced in Monaco under article 1 of the Franco-Monegasque Tax Convention of 18 May 1963¹.

I have the honour to inform you that, in view of the special economic and financial links between France and Monaco, the French Government proposes that the following measures should be adopted in order to avoid these difficulties :

1. France would grant the tax advantage provided for in article 1 of Act No. 65-566 of 12 July 1965 to such part of the dividends paid out of earnings of French and Monegasque enterprises which have been subjected to the company tax or the profits tax in force in each of the two States as accrues to bodies corporate or individuals having their head office or their true domicile in France.

2. The Government of the Principality would assume responsibility for a part of the tax collected in advance to which distributions of profits from business carried on in Monaco is subject, by transferring to the French Treasury a share of the profits tax levied on those earnings.

3. The amount of this payment would be determined on a case-by-case basis in the following way :

Amount of profits tax to be transferred :

$$Dm \times \frac{1}{1 - Tm} \times \left(Tm - \frac{Tf}{2} \right) \times \frac{Cf}{C}$$

In this formula :

- *Dm* represents the distributed dividend paid out of profits made in Monaco ;
- *Tm* represents the rate of the Monegasque profits tax ;
- *Tf* represents the rate of the French company tax ;
- *C* represents the amount of the registered capital ;
- *Cf* represents the amount of the registered capital owned by bodies corporate or individuals having their head office or their true domicile in France as at the date of the general meeting of shareholders at which the distribution is voted.

4. The amount of the tax collected in advance payable by Monegasque companies would be that appropriate to the dividends distributed to bodies corporate or individuals having their head office or true domicile in France, plus the sum transferred to the French Treasury by the Monegasque Treasury as determined on the basis of the above formula.

¹ See p. 393 of this volume.

Monegasque companies would compute and make payment of the amount of the tax collected in advance within three months of the date on which the distribution was voted.

The payment to be made by Monegasque companies would be reduced by the amount of the transfer made by the Treasury of the Principality.

The division of the capital as at the date of the distribution would be proved :

- In the case of registered shares, by production of an extract from the transfer register showing the names and addresses of shareholders having their head office or true domicile in France ;
- In the case of bearer shares, by production of a certificate of deposit for the shares in question issued by an approved establishment, indicating the name and address of the shareholder having his head office or true domicile in France.

5. This system would be applied only where the companies concerned submitted an application to the Monegasque Tax Administration. A copy of the application should be sent at the same time to the competent French tax office.

6. If the Monegasque Treasury were a shareholder in the aforementioned companies, the sum to be paid to the French Treasury would be reduced by the amount of tax deducted at the source to which the Monegasque Treasury would be liable in respect of the dividends received from those companies.

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

If so, I would suggest that this letter and your reply should constitute the agreement between our two Governments on this point. This agreement shall enter into force upon our notifying each other that the requisite constitutional procedures have been completed on both sides and shall apply for the first time to the taxation of proceeds distributed on or after 1 January 1966 by Monegasque companies covered by paragraph 5 of this letter to bodies corporate or individuals having their head office or true domicile in France. This agreement shall remain in force indefinitely, unless denounced by either party at least six months before the end of any calendar year. In such event, it shall cease to have effect as from the first day of January of the year following the denunciation.

Accept, etc.

Gilbert DE CHAMBRUN

Mr. Delavenne
Minister of Monaco
Legation of Monaco
Paris

II

LEGATION OF MONACO

Paris, 9 December 1966

Sir,

In your letter of to-day'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.

Accept, etc.

Maurice DELAVENNE
Minister

Mr. Gilbert de Chambrun
Minister Plenipotentiary
Director for Administrative Agreements
and Consular Affairs
Paris
