



TEMPEST  
LEGAL SERVICES MONACO



# THE PRINCIPALITY OF MONACO - RESIDENCE, BUSINESS & LAW

## WHAT IS THE PRINCIPALITY OF MONACO?

Monaco is a sovereign State which has been ruled over by the Grimaldi Family for more than 700 years.

It is a Constitutional Monarchy. **Monaco is a member of the Council of Europe.**

Monaco is not a member state of the European Union so it is independent of EU legislation but it enjoys a special relationship with its neighbour (France). A Customs Union with France and regulation of Monaco's banking system by the Bank of France illustrate this.

Monaco legislates internally to create its own laws - whether civil, fiscal, or criminal - and if Monegasque codified laws were originally inspired by the laws of France, the Principality has chosen not to adopt certain laws, and Monaco legislates independently in the interests of its citizens and its residents subject to the principles laid down in its own Constitution and in accordance with the many International Treaties which the Principality has signed.

Amongst these are several Double Tax Treaties, and numerous Tax Information Exchange Treaties; in the private law arena, the Principality has adhered to a number of Hague Conventions.

Monaco has its own independent legal system and judiciary many of whose members are drawn from the French judicial system.

All Court decisions are rendered in the Principality itself (First Instance, Appeals, Supreme).

About 80% of the resident population is made up of foreigners (whether French, Italian, British, or indeed any of the 130 or so nationalities represented) which means the Principality is geared to welcoming people from elsewhere and has adapted its laws accordingly.





## HOW TO BECOME A RESIDENT OF THE PRINCIPALITY OF MONACO

If you plan to spend more than 3 months in Monaco in any 12 month period or settle here you need to apply for a Monaco residency card ("Carte de Résident"). Residency is an Immigration status granted by Monaco's Immigration Police after an application file has been submitted for review and you have been accepted. But "residency" must not be confused with "tax residency": strictly speaking no such status in Monaco exists in local law because no tax arises in Monaco as a consequence of being resident here.

Details of the forms and procedures and papers required to be submitted to acquire residency can be downloaded from the Monaco Government website ([www.gouv.mc](http://www.gouv.mc)) and are available in English and in French.

Citizens of the European Economic Area/EEA (which includes all EU State citizens although this extends beyond to other countries, and this list also includes Switzerland) need only make an application **direct in Monaco** for residency with Monaco's Immigration Police.

Citizens of countries beyond that list would usually need first to **obtain an Establishment Visa** from the French Consulate of their country of present residence, before then making a residency application directly in Monaco. Monaco has delegated the Visa process to France.

Apart from having a **clean Police record** and **proof of sufficient means** to live in Monaco (this proof is provided in the form of an attestation given by a Monaco financial institution), or a job, or an approved business activity which will provide those means, it is necessary to have a place to live in Monaco before making the residency application: it is possible to rent or buy (ownership is not a prerequisite) and no authorisations are required to rent or buy real estate in Monaco.

The property which is bought or rented is then going to have to be of sufficient size properly to house the individuals who make up the Family moving to Monaco.

## TAX IN MONACO

There are no Income, Capital Gains, or Wealth Taxes in Monaco.

The Principality's main source of revenue derives from indirect taxation (TVA/VAT) levied on goods and services at the same rate as in France (currently 20%) although it levies taxes on certain Business Profits, for those engaged in approved commercial or industrial business activities in Monaco, and Stamp and Registration Duties such as on leases and when real estate is transferred.

Estate Tax/Gift Duty exists in Monaco but in limited circumstances and **only on Monaco-sited/deemed sited assets**; even then the rate of tax is 0% when the asset passes in the immediate family (e.g. spouse, parents, children, grand-children).

This Tax/Duty is not impacted by where an individual is resident or domiciled; it is a **situs-based** tax, due by residents and non-residents alike.



## SETTING UP IN BUSINESS IN MONACO

To carry out a commercial, industrial, professional, or artisanal activity in Monaco a business licence is first required. This is granted by the Monaco Government, once the relevant department has considered an application.

Business can take a variety of forms (such as, own name/sole trader, commercial agent, unlimited liability Monaco partnership, limited liability Monaco partnership/SARL, limited liability Monaco company/SAM, branch of a foreign company).

The entire licensing process remains with the Monaco Government. This will also extend to Monaco's Financial Services Regulator (CCAF) if a regulated activity in the financial services arena is involved (e.g. Asset Management, or Hedge Fund activity).

Exceptionally it will involve French Regulators, where a Banking or Insurance activity is involved.



## REGULATION

Depending upon the nature of the business, one or more Regulators may be involved either to approve the application, or to monitor the business activity later.

Monaco is very vigilant about Anti-Money Laundering, and AML regulations extend beyond those businesses concerned purely with managing money: certain Banks, asset management companies, Hedge Fund management and similar businesses are concerned, but AML Regulations extend beyond to a variety of other professions (law, accountancy, auctioneering, high value brokering notably in Yachts, jewellery sellers etc.).

Data Protection too is an important issue in Monaco, and businesses are subject to strict Data Protection obligations and regulation by a separate Monaco Regulator (CCIN).

## CORPORATE GOVERNANCE, COMMERCIAL AND ECONOMIC STRATEGY, SINGLE FAMILY OFFICES, MULTI-FAMILY OFFICES, (REGULATED OR UNREGULATED)

Over decades many family-held Groups have made Monaco their home to act as HQ for their business and corporate strategy needs, extending into corporate governance, often linked to the desire of certain family members to reside in Monaco personally and preside over the management of the family business.

More recently, Monaco has become known for **Single Family Offices** where families have centralised their family governance affairs beyond managing purely their businesses and investments; this might extend to charitable and succession planning, or the management of special asset classes such as an art collection, or planes and yachts.

A **Single Family Office** is not normally touched by certain regulatory constraints such as control by the Monegasque Financial Services Authority (CCAF) or reporting obligations to the AMLR Authority (SICCFIN). They will be subject however to regulations monitored by the Data Protection Regulator (CCIN).

Some families have decided to pool their skills with other families, extending therefore beyond management of assets of a purely single family, and have deliberately sought to become regulated, perhaps to make certain investments outside the Principality which would only be open to a regulated investor.

Hence, both regulated and unregulated **Single Family Offices** co-exist and are welcome in the Principality of Monaco.

Recent law in Monaco has also caused **Multi-Family Offices** to flourish but, as their name suggests, these companies (which may opt for unregulated or regulated status, depending upon their desire to offer investment advice) do not exist to service a single Family. They are made up usually of a variety of professional individuals who are seeking to offer services often associated with those provided by **Corporate Service Providers**.

## EMPLOYMENT

Employing people in Monaco requires the employee to be apt for the job (in health terms) which will involve a medical being carried out, culminating in the granting of a Work Permit.

Employers and employees alike pay into Monaco's Social Security system in return for which they receive medical, unemployment and pension cover. The employment will be subject to Monaco's employment laws.

Individuals moving to Monaco are starting to give more and more attention to Employment, not just in respect of staff for them, but also **for themselves**.

In the absence of "tax residency" status in Monaco, and with more and more difficulties encountered in obtaining reliable Private Health cover, and growing concerns internationally over residency for *Common Reporting Standard* purposes (incidentally, Monaco has legislated for *Common Reporting Standard* residency) the effects of which are felt well beyond Monaco's borders, these factors taken together are starting to cause individuals to enquire not only about becoming a **Resident of Monaco**, but also about **how to become Self Employed**.

Self-employed status gives a person a Social Security number, and of course thereby access to Monaco Social Security and especially excellent State Health cover, but that status may then serve to acquire **Residency for Common Reporting Standard** purposes. A precious mix.



## PRIVATE INTERNATIONAL LAW

The geography of Monaco and the high ratio of foreign residents means Monaco has regularly come into contact with Private International Law questions whether in cross border business terms or in personal law terms (e.g. Wills and Estates).

In July 2017 a Monaco Law came into force which has become a *Private International Law Code* (the Code). This has fundamentally changed a number of approaches, most notably in respect of Succession law.

Monaco will now apply its **own domestic Succession law** to determine how assets pass for an individual who dies habitually resident in Monaco in respect of worldwide assets of whatever nature.

But vitally the Code allows for an individual to make an election in his/her Will that, instead, his/her **national Succession law** will apply over movables and immovables alike, whether in Monaco or elsewhere.

To achieve the desired result that the national Succession law will apply, a deliberate election must be made in the Will. This represents a very valuable opportunity for people moving to Monaco who may wish to retain the benefits of national law liberty and form of Wills.

Monaco has also reinforced how it appreciates and enforces Trusts and many individuals, resident in Monaco, resort to using Trusts as part of their Succession and asset planning strategy.

## HOW CAN WE HELP?

Our 2 partners (a French, and a British citizen) can help explain any of the matters arising from the above and can introduce you to a variety of professionals in Monaco to assist with your project to relocate to the Principality of Monaco or to set up in business here.

That might involve a Monaco Notaire (to set up a limited liability company) or an accountant (to advise on Business Profits Tax matters) and we would be very pleased to have an opportunity to discuss how we might assist you with your strategy of moving to and/or to opening a business in the Principality, and the regulatory and administrative environment to which you will then be subject.

We can also consider providing you with a tailored **Report on Monaco**, to cover your specific business, personal and family circumstances around a move to Monaco, for which we will charge a fee once we have met you and established with you what such a Report will cover.



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