

Monaco Companies – stamp duty on purchase of Monegasque property

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Monaco is not a complete tax haven. A substantial amount of the Principality's revenue is derived from VAT and to a much lesser extent stamp duty. In practice collection of stamp duty is not maximised as many properties are owned by non Monegasque offshore companies whose share structure is opaque. This means that buyers have the option of purchasing the shares and in practice paying no Monegasque stamp duty (currently 6.5 %). There are the usual risks in buying companies but in Monaco due to the sophistication of the market these risks are lower than say in France. France has the added difficulty that property company share sales are taxable if the company owns more than 50% French property. The position in Monaco is more ambiguous though in practice, company sales are wide spread.

All this may be about to change. Although Monaco has been spared the worst of the recent fiscal tightening it has still been affected. The budget for Monaco for 2010 has shown a sharp drop in income received by the Principality and in a recent press article (Nice Matin 12/10/2010) there has been comment from the Monegasque Finance Commission about government receipts from property sales. There is a delicate balance for the Monegasque authorities to find here. On the one hand encouraging wealthy buyers and entrepreneurs to Monaco is a priority but on the other hand stamp duty is an easy and anonymous tax to collect and wealthy people pay it elsewhere as an expected overhead along with estate agents' commissions and lawyers' fees. Timing is also important; buyers may be more willing to accept it if the property market in Monaco looks like it is improving and the 5% outlay will quickly be recouped.

Discussions are currently taking place in Monaco about a new requirement for non Monegasque companies to declare the ultimate "economic" owner of the company. This would include French and EU companies as well as companies in usual tax havens. If such an annual declaration is not made the company will be liable to pay a flat tax of 1% of the value of any Monegasque property it owns. This will mean that the Monegasque authorities (and no one else) will be aware of the economic owner of the Monegasque property. They will also be aware if a share sale or gift has taken place within the previous 12 months.

This may be coupled with a reduction in Monegasque stamp duty to 5% to bring it in line with the French rate. This would mean that anyone owning a property for less than 5 years could come to the conclusion that the 1% per annum tax was a cheaper option and continue with an offshore company.

The new law may include a requirement for non Monegasque companies to appoint a tax agent who would be responsible for the declaration and any tax liability. This could be more problematic and may result in directors of the offshore companies considering whether they could have any liability. It will inevitably mean more fees as any person acting as a tax agent will need to be paid and probably be insured.

This is likely to lead to more buyers opting for Monegasque companies. These will probably have the advantage that no tax agent needs to be appointed. The share structure is not published though is available to the Monegasque authorities which equates to what any new law is likely to seek to achieve. Current owners may wish to convert existing offshore vehicles into Monegasque companies and reregister them in Monaco. Structures which involve Monegasque companies owned by offshore companies will however probably fall foul of any new rules and disclosure will still be required.

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