No. 9438

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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Enregistrée par la France le 26 février 1969.

[TRANSLATION — TRADUCTION]

CONVENTION[1] 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.

[1] 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 drom 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 constitute 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