

Property in France and succession– Monegasque residents

Anahita Barbe and David Anderson, solicitors at RWK Goodman, discuss inheritance issues for Monegasque residents with property in France.

It is often the case that residents of Monaco own a second home in France. It is usually best for inheritance tax reasons for such a home to be bought using a Monegasque “Société Civile Immobilière” (SCI) which is a non-trading property holding company. It is similar in form to a French SCI. The Monegasque SCI needs to be incorporated and registered in Monaco, and it is possible to appoint a professional to be the director or *gérant*.

The reason is that the Franco Monegasque Convention of 1950 provides that moveable assets of a Monegasque domiciled person are only taxable in Monaco and not France. Immoveable assets such as land are taxed where the land is situated. Accordingly, a villa in France owned directly in a Monegasque resident’s name is taxable to French inheritance tax in the normal way.

However, the same villa owned by a Monegasque SCI is not taxed in France because upon death, it is the shares in the Monegasque company holding the property that pass, and not the property itself. The Monegasque shares are non-French moveable assets and will therefore be taxed in Monaco. This makes the Monegasque SCI an efficient vehicle in organising succession. There are some other points in the Convention to be aware of so taking professional advice is sensible. RWK Goodman LLP can help here.

There are a few practical considerations to bear in mind when intending to use this structure:-

- Most villa purchases are bought using Lombard Finance mortgages from a Monegasque Bank. Check the notaire is on the panel of the Monegasque bank to avoid having to use a second notaire to represent the bank.
- Ensure that the notaire only “publishes” the transaction in France at the French Land Registry and makes no reference to the collateral in Monaco. The notaire should be instructed from the outset by the Monegasque SCI and not by the beneficial owner.
- Most people appoint a professional director to run the Monegasque SCI. Ensure this person is of high reputation and can also be removed easily without excessive costs if required.
- Consider who holds the shares in the Monegasque SCI.
- Consider level of debt in the Lombard finance to minimise French Wealth Tax. Normal loan to value gearing limits is not normally an issue because of the collateral security in Monaco.

- Consider Wills.
- Extra advice is essential if the villa is to be let out as a holiday rental.

Your contacts



Anahita Barbe

Solicitor

International | Private Client | Wills, Trusts and Estates

T: +44 (0)2037 509 359

M: + 44 (0)7833 988 249

anahita.barbe@rwkgoodman.com



David Anderson

Solicitor

International | Private Client | Wills, Trusts and Estates

T: + 44 (0)2074 217 922

M: +44 (0)7887 533 175

david.anderson@rwkgoodman.com

Anahita Barbe is a solicitor in the Private Client team at RWK Goodman and specialises in international private client law. She is bilingual in French and English, and has a Bachelor's Degree from the university of King's College London and a Masters in Taxation from Dauphine university in Paris.

David Anderson is a solicitor at RWK Goodman.



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