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Family Offices

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The Principality of Monaco is home to some 35,500 people of whom the vast majority are citizens of other countries. This makes the Principality a very cosmopolitan City State. The Principality is also home to the greatest concentration of private wealth in the world.

Lack of taxation for individuals has much to do with the Principality's success, but this is far from the whole story. Residents of Monaco receive unsurpassed service from the police force here. Security of the person and an excellent record on prevention of crime make the Principality one of the most desirable destinations for individuals and their families.

Service industries and professions such as private banking, law and accountancy (not to mention medicine, culture, gastronomy, private yachting facilities and the like) have gravitated to the Principality to support wealthy families who live here.

This environment has led a number of families to create a Family Office in Monaco. Family Offices have existed in Monaco under a variety of titles and names for generations.

Some offices will be corporate in form and design. They will be incorporated as limited liability companies in the Principality, or are licensed as administrative or branch offices of foreign companies. They will tend to follow standard corporate lines and titles. More recently a number of "civil" limited liability companies have been incorporated in the Principality to the Family Office formula. Limited liability status is attractive where the purpose of the Family Office is to invest existing family assets whether by using independent stockbrokers and private banks, or more aggressively by putting up assets for start-ups and new ventures. But, historically, Family Offices rather than enjoying a passive/civil role have been more commercial in nature since they are often a manifestation of an entrepreneur's business. This has been particularly so in the world of shipping and ship management.

The question arises whether a Family Office constitutes a business activity in Monaco, for the following reasons.

Any activity carried out in or from the Principality which is *artisanal*, commercial, industrial or professional requires a Government licence. Such licences whilst discretionary are not difficult to obtain



Photo I. Bazzoli

provided always :

- the applicant has no criminal record and has some experience of running a business along the lines requested, and
- the business is not in some specialist or regulated category (eg banking or managing the assets of third parties or giving investment advice to third parties).

If a Family Office is a grouping of a family's advisers and service providers under one roof who are dedicated to running family assets then there is no likelihood of them falling foul of specialist legislation : this would be otherwise if, for example, the business consisted of taking up assets from third parties for investment.

Where the activity of the office is so passive as to consist of investing existing family assets then in all probability no licence is required for that activity to be carried out in the Principality since it will not come within the authorisation and licensing process. If it is purely a civil activity consisting of managing family assets the family can probably run an office privately without any administrative requirements outside of respect for normal residency and employment formalities. But then there will be no limited liability protection for a family which treats in a private capacity.

People can be employed in Monaco regardless of the status of the employer (individual or corporate, etc.) provided that the employer :

- is resident in the Principality, and
- has registered with the appropriate Monegasque Social Security and Insurance Services.

Consequently, a Family Office may exist either because employees are employed by a company or an individual with authorised status, or simply by a private individual who has only Monegasque residence status. There are no limitations on how many employees may be employed by a private individual nor on the status or skills of those employees (for example lawyers, accountants, bookkeepers, analysts, and so on can be employed by private individuals). The crux is whether that private individual is carrying out what amounts to a business activity in Monaco.

In any case the employee will be subject to a review of their own residency and health status before the employer will be permitted to take them on.

There are no income, capital gains or wealth taxes in the Principality. Monegasque inheritance tax/gift/estate duty exists but only on Monaco-sited assets and the rate of such duty is 0% if Monaco sited assets are transferred to immediate members of the family.

VAT is the main source of revenue for the Principality and, depending upon the VAT status of the Family Office (in certain circumstances it will be possible to register), VAT will be relevant.

Otherwise, a Family Office might be subject to Monaco's profits tax. This is a tax on business (regardless of form) where such business is industrial or commercial. Only then will profits tax apply if more than 25% of the turnover derives from outside the Principality.

Whilst most Family Offices will be structured so that they do not take on the tax mantle, it is not inconceivable that a Family Office will so wish to structure itself. Working examples will be found in some of the ship management Family Offices which have a commercial activity.

Typically there are two ways for commercial or industrial activities to mitigate tax exposure in Monaco, as follows :

- where the office has administrative office tax status (rendering it taxable to a specific percentage tax on local running expenses, not profits) ; or
- the remuneration of the principals is so significant as to reduce taxable profit to a small sum (it is to be remembered that there is no income tax in the Principality so that remuneration of the principals will not give rise to tax in their hands in the Principality), although there are limits set on how much gross profit can be reduced in this way.

Meanwhile, a Family Office may well exist without a family member residing in the Principality. But such an office would therefore necessarily be in some corporate form since, absent an individual family member, there is no means of creating the office or employing anybody within it unless the family is represented by a company authorised to have a presence in Monaco. Invariably a family member (or members) will reside in the

Principality because Monaco is likely to be more than simply a service centre for the family's affairs. An increasing number of younger families are moving to Monaco to take advantage of schooling, health and sporting and cultural activities, linked to the ever-growing quest for family security and fear of kidnap.

Whilst a Family Office may exist in Monaco without a family member's presence, this will be unusual since typically the Family Office will exist in Monaco precisely because a member or members of the family wish to reside here.

So a Family Office without the presence of a family member is possible, but probably rare. Rather, families wishing to base themselves in Europe with access to European schools, culture and business opportunities may wish to focus on a family home in the Principality where they can be surrounded by their advisers, managers and other professionals (doctors, dentists, trustees, executors, etc.)

Indeed, whilst there is no formal "Family Office" title afforded to many activities, whether those activities constitute a "business activity" requiring a licence or are carried out in some passive/"civil" form, it is palpably true that more and more families are turning to Monaco as a place in which to base their Family Office.

"Regulated" Family Offices

Certain family offices wish to group their family investment strategy alongside other families. This brings them into a regulated arena. They are then subject to control by Monaco's financial services regulatory body (CCAF) and anti-money laundering obligations. Increasingly, families are seeking this regulated status. They can only carry out a limited investment activity if they choose to group their activities with other families but this does not preclude the family from having its own, separate distinct family office (in the form of a SAM say to carry out the discreet family activity in parallel).

How can we help?

Our office has existed in the Principality since 1979. We are the only English based international law firm in the Principality. Between our Monaco, Dubai, Moscow and London offices we have the strength and depth to offer a full legal service to both local and international clients. We aim to advise our clients in an efficient and cost effective manner and with a particular emphasis on commerciality and confidentiality.

We speak a number of languages including English, French and Icelandic. We have a client base which includes entrepreneurs, entertainers, financial or banking services companies, fund managers, trust companies, sporting personalities and international families from many jurisdictions.

Beyond its London, Dubai, Moscow and Monaco offices LG has strong relationships with law firms throughout the US, Asia and around the world. These relationships enable us to advise comprehensively on any matters with an international dimension.

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