



# Business and Taxation Guide to **Monaco**

## *Preface*

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This guide is intended as a general guide only and should not be acted upon without further advice.

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# 1. *General information*

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## 1.1 Opportunities and possible obstacles for foreign investors

Some of the key attractions of Monaco for foreign investors include:

- Low taxation – including an absence of income tax, capital gains tax, wealth tax, and local taxes. Monaco also has a limited gift and inheritance tax and a favourable regime for business profits
- Political stability
- Euro as official currency
- Hallmark as a responsible country, with strict controls to eliminate non-legitimate business
- Benefits of the European Union (EU), without the disadvantages of membership (the single European market has the potential to reach 500 million consumers).
- Confidentiality of business and private matters
- Excellent communications and transport facilities
- Strong professional infrastructure
- Good climate
- Reputable education system.

## 1.2 Area and population

Monaco is the second smallest country in the world, with a land area of about 2 square kilometres, and has a population of approximately 35,000 people. Monaco is located on the Mediterranean Sea, approximately 20km from Nice, and is entirely surrounded by France, by land. The Italian border is approximately 12km away.

## 1.3 Constitution, political structure and law

The Principality of Monaco is an independent sovereign state. Its independence and sovereignty were first recognised by France in 1489.

The Head of State is the Prince, a hereditary monarch. The written Constitution assures the separation of powers. Executive power rests with the Prince, who is assisted by six Ministers. Legislative power rests with the Prince and the National Assembly, which comprises 18 Monegasques that are elected every five years, by Monegasque citizens.

Monaco is not a member of the EU. This means responsibility for external matters rests with the Prince. Monaco has a special relationship with France, which has an important impact on Monaco as a business centre. Since 1865 there has been a customs union with France, and since 1945 Monaco has been a part of the French franc zone. Consequently, in accordance with the annex declaration of the Maastricht Treaty, Monaco introduced the Euro according to the timetable in France and the Euro has become the country's official currency.

Under the 1963 treaty, all French custom laws, including Value Added Tax (VAT), are applied in Monaco, and the customs service in Monaco is staffed entirely by French officials. All duties and

taxes are collected for the French Treasury, but a portion of the total customs duties and VAT collected in both France and Monaco is paid to the Monegasque Treasury. There are no frontier posts between Monaco and France, and goods and people pass freely.

The 1963 treaty also included provisions relating to business taxation, residency in Monaco, insurance, postal and telephone communications, and pharmacy. Consequently, conditions in Monaco are similar to those in France.

With regard to Monaco's legal system, the Monegasque courts and tribunal, whose judges are guaranteed independence by the Constitution, exercise judicial power.

## **1.4 Key economic indicators**

Monaco boasts the world's highest GDP per capita at \$151,630. Monaco also has the world's highest life expectancy at almost 90 years (CIA estimate, 2011), and the lowest unemployment rate, at 0% in 2011 (according to the CIA World Fact Book).

Approximately 80% of Monaco's economy is based on services, with tourism and financial services prevailing. About 5% of the economy is based on manufacturing, with cosmetics, pharmaceuticals, plastics, jewellery and clothing predominant. Approximately 50% of the country's budget is financed by VAT. Contrary to popular belief, the Monaco Casino business only produces about 2% of total finances.

## **1.5 Banking and finance**

There are approximately 80 Banks and Asset Management Companies in Monaco, whose emphasis is on portfolio management and private banking.

## **1.6 Currency**

The unit of currency is the Euro, represented by €. A single Euro is divided into 100 cent. The International Standards Organization (ISO) currency code is EUR. Prior to 2002, Monaco minted its own coins: the Monegasque franc. Monaco has acquired the right to mint euro coins with Monegasque designs on its national side.

## *2. Regulation of foreign investment*

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Exchange control restrictions were completely lifted in Monaco during 1990, with only certain reporting requirements remaining. However, investment controls are still in force, which can restrict the acquisition of existing 'sensitive sector' enterprises by foreigners.

### 3. *Government incentives*

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In order to encourage the development of industry in Monaco, there are grants for the reimbursement of a portion of the annual rent.

All new taxable businesses created are exempt from Profit Tax for the first two-year period. Tax credits for Profits Tax purposes are also available for Research & Development (R&D) expenditures.

Although the unemployment rate in Monaco is 0%, in order to encourage employment, social security charges may be reimbursed for the first 12 months.

A Government-backed capital venture company is prepared to grant 'soft' loans to new Government-approved projects.

There are also grants to assist in the development of export markets, innovation, training, and the purchase of electric cars and a Government-backed Guarantee Fund.

## 4. *Business organisations available to foreigners*

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There are eight possible forms of conducting a business operation in Monaco:

- (a) Corporation (*société anonyme Monégasque*)
- (b) Limited liability company (*société à responsabilité limitée*)
- (c) General partnership (*société en nom collectif*)
- (d) Limited partnership (*société en commandite simple*)
- (e) Partnership limited by shares (*société en commandite par actions*)
- (f) Civil partnership (*société civile*), normally reserved for real estate activities
- (g) Sole proprietor (*entreprise individuelle*)
- (h) Branch of a foreign corporation.

With the exception of a civil partnership business entity, it is mandatory to obtain permission from the Monegasque Government before commencing business operations. It usually takes at least two months to obtain such permission.

Special regulations govern certain business activities, such as:

- Banking
- Insurance
- Financial institutions
- Pharmaceuticals
- Transport
- Arms and ammunition
- Chartering of ships
- The legal, medical, and accountancy professions.



## 5. *Setting up and running business organisations*

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### 5.1 Corporation (**Société Anonyme Monégasque (SAM)**)

Unlike most other jurisdictions, a SAM may only be incorporated with government approval. The formation procedure usually takes two months to complete. In addition, a SAM must be formed by a notarial deed.

In contrast with many other jurisdictions, the objects clause of a SAM is drawn up tightly, and it is not possible to insert all-embracing clauses. Specific features include:

- The minimum issued share capital is €150,000 euros, which in practice must be paid up at the date of formation. Shares may also be issued in exchange for contributions in kind.
- There must be at least two shareholders, and shares must be issued in registered form.
- There must be at least two directors, one of whom should be a resident of Monaco with full powers to manage the company. There are generally no restrictions regarding the nationality of shareholders or directors.

Each SAM must have its own registered office, and the SAM must be either the owner or the tenant of the premises from which it operates. This means it cannot share the same premises with other companies, and only certain premises are authorised by the Government for commercial or industrial use.

Before granting authorisation, the Government will wish to be satisfied as to the adequacy and suitability of the premises selected. Each SAM must also be adequately staffed in order to carry out its business operations; there are no written rules on this, each case being treated on its own merits. However, the Government generally prefers to see a minimum of four staff by the end of the first operational year. Clearly, 'paper SAM's' cannot be formed, and the Government looks for substance of operation.

The cost for incorporating a SAM with a minimum share capital of €150,000 is between €11,400 and €13,400. This amount includes registration duty (1.5% on capital), stamp duty (€300), notary fees (0.90% on capital), and publication of the SAM's statutes in the *Journal de Monaco*, the local gazette (between €7,500 and €9,500, depending on the length of the Statutes).

A SAM must appoint two Monegasque chartered accountants as statutory auditors.

It is mandatory to file audited accounts annually with the Repertoire de Commerce (commercial registry), within nine months of the end of an accounting period. Accounts must be filed with the tax authorities within three months of the end of an accounting period. These financial statements are not available to the public.

### 5.2 Limited Liability Company (**Société à Responsabilité Limitée - SARL**)

A SARL may only be incorporated with prior governmental approval. The procedure usually takes two months.

There must be a minimum of two shareholders: one Manager (Gérant), and a minimum issued and paid up share capital of €15,000.

Each SARL should have its own offices and meet similar requirements as outlined for a SAM (see 5.1). The appointment of Auditors is not mandatory until the SARL reaches a certain size.

The costs of incorporating a SARL with a minimum share capital of €15,000 are about €1,600. This amount includes registration duty (1% on capital), stamp duty (€300), notaries' fees (0.90% on capital), and publication of the SAM's statutes in the Journal de Monaco - the local gazette - (approximately €1,000).

Similar conditions that apply to a SAM for the filing of accounts, also apply to a SARL.

### 5.3 General Partnership (Société en Nom Collectif)

This kind of partnership has a separate legal identity, although the partners retain joint and several liabilities. Unless otherwise specified in the partnership agreement, profit and losses are divided in proportion to each partner's capital contribution.

Prior permission from the Monegasque authorities is needed to establish this entity.

An extract of the Article of Association must be published in the official gazette of Monaco, and an exact copy must also be filed with the Registrar of Commerce and Industry.

### 5.4 Limited Partnership (Société en Commandite Simple)

A Limited Partnership has a separate legal identity.

This type of structure is a mixture of:

- Passive partners (commanditaire), whose legal responsibility does not extend beyond their contributions, **and**
- Active partners (commandités), who are jointly and severally responsible for the debts of the company. The active partners must be resident in Monaco.

Limited partnerships require at least one active and one passive partner. A passive partner cannot participate in the management of the company. Incorporation formalities are the same as for a general partnership (see section 5.3), and prior permission is required.

### 5.5 Civil Partnership (Société Civile)

The creation of a Civil Partnership requires at least two partners. The manager does not need to be a partner. Partners and manager(s) are not subject to any residency or nationality requirements. A Civil Partnership is often used as an entity for real estate activities.

The partnership must be registered with the 'Répertoire special des sociétés civiles', but the names of the partners are not disclosed to third parties.

The partnership deed and any subsequent amendments, plus the deeds for transfer of shares, must also be registered with the Monaco tax administration.

Where the object of the partnership is limited to the management of its own assets, it is not necessary to submit accounting records and corporate tax returns to the Monegasque Authorities. No prior permission from local authorities is required for the establishment of a Civil Partnership.

## 5.6 Sole proprietor (Entreprise Individuelle)

Retail business is usually performed by individuals in their own name. This is also the structure that, in all likelihood, would be granted to independent contractors, sales agents, and other service suppliers who do not need any staff or premises to perform their activity.

## 5.7 Branch of a Foreign Corporation (BFC)

Before establishing a business operation in Monaco, a BFC must obtain permission from the Monegasque Authorities. A standard application form is filed with the Minister of State by the person designated by the foreign corporation to act as the local branch manager (responsible agent). This application form is accompanied by:

- The foreign company's statutes and certificate of incorporation
- Relevant board minutes
- The last three years' audited financial statements
- A copy of the lease (or option for a lease) of premises at which it is intended to conduct the branch operations
- A report describing the company's proposed activities and mode of operation.

The responsible agent must be a resident of Monaco and have full powers to conduct the local branch operation. There are no minimum capital requirements for establishing a BFC, but the local authorities would expect the BFC to be capitalised sufficiently to cover local set-up costs.

It is difficult to obtain authorisation for the branch of a foreign corporation that has been established for less than three years. However, there are no fixed rules and each case is judged on its own merits. Normally a BFC is initially granted a two-year licence, renewable on a three-year basis, which in most instances is renewed. The local government tends to favour granting a licence to operate as a BFC, rather than as a SAM, to relatively small types of business activity. Should activities expand significantly, an application to convert the BFC into a SAM may be made at a later stage.

**Nowadays, smaller enterprises tend to operate under the form of a limited liability company.**

## 6. Corporate taxes and social charges

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### 6.1 Profits tax

#### Scope of the tax

Profits tax is levied on net profits at a rate of 33⅓% and applies to:

1. Foreign and local enterprises, which include companies, branches, partnerships, and sole proprietors which engage in industrial or commercial activities in Monaco, at least 25% of whose turnover is derived directly or indirectly from non-Monegasque sources; **and**
2. Companies whose activities in Monaco involve receiving proceeds from the sale or licensing of patents, trademarks, manufacturing processes or formulae, and literary and artistic copyrights, irrespective of their source.

Consequently, the enterprises referred to in point 1, which derive more than 75% of their turnover from Monegasque sources, are exempt from profits tax.

Whether an enterprise is or is not engaging in industrial or commercial activities in Monaco is a question of fact. The test may be described as the effective place of management. The effective place of management of a Monegasque company is always considered to be in Monaco. This may be explained by a local requirement that the managing director of a Monegasque company be a resident of Monaco.

In deciding whether a foreign corporation has created its effective place of management in Monaco, the Monegasque tax authorities have to consider:

- The place of residence of the directors and officers of the company
- The place of residence of the principal shareholders **and**
- The place where the company's board meetings are held.

In principle, Monaco operates a territorial system of taxation. When determining the taxable base for the purpose of profits tax, profits and losses attributable to the following are excluded:

- Foreign permanent establishments
- Complete cycles of commercial operations, such as the purchase and re-sale of goods, regularly realised outside Monaco
- Operations conducted outside Monaco by dependent agents, if such agents either have or routinely exercise outside of Monaco the authority to conclude contracts on behalf of a Monegasque enterprise, or hold a stock of goods outside of Monaco for the purpose of regularly fulfilling orders received through their intervention.

Foreign-source investment income, unless attributable to any of the above three categories, is included in the taxable base.

Operational headquarters are often given favourable tax status, and advance rulings may be negotiated with the Monegasque tax authorities. In principle, they are taxed by reference to the profits normally realised by a Monegasque enterprise and conducting the same activities, using the prices which this enterprise would invoice for its services to a third party. In practice, due to the

difficulties in establishing such a profit, they are normally taxed on a notional net profit, agreed in advance with the Monegasque tax authorities. The notional net profit is expressed as a percentage of local expenditure, and is usually fixed at 8%.

Newly created qualifying enterprises may benefit from an exemption from tax during their first 23 months of existence. During the three subsequent periods of 12 months, each profit is only taxed to the extent of 25%, 50%, and 75% respectively.

A tax credit is now available to enterprises that incur research expenditure. The amount of the credit is equal to 50% of the difference between expenditure in the current year and the average of expenditure in the two preceding years. It is adjusted like this to account for increases in the retail prices index.

## 6.2 Defining taxable income

Taxable income is defined as the difference between net assets at the beginning of the year and net assets at the end of the year. This adjustment takes into account any investments by shareholders and any distributions to them. However, this general rule is subject to amendments, although there is normally little difference between accounting and taxable profit.

There is a limitation on the deductibility of remuneration paid to executives and officers of the company, which is related to turnover, as there is no personal income tax in Monaco. Nevertheless, the allowance is generous.

Payments of commissions, royalties, and other forms of compensation to local residents are only allowed as tax-deductible expenses, subject to certain conditions.

Interest paid on shareholder loans is deductible up to two percentage points above a rate of reference fixed by the Bank of France. There is, however, a debt/equity restriction of 0.5:1 for controlling shareholders.

Charges made by related foreign entities are subject to careful examination by the tax authorities.

There are statutory transfer pricing provisions, which may deny the deduction of charges made in excess of arm's length prices. Any excess over and above an arm's length price may be added back into the tax calculation and effectively treated as income.

Dividends received are generally included in taxable income at their gross value, inclusive of withholding taxes. However, this treatment does not apply when a Monegasque company, under certain conditions, owns at least 20% of the capital of another company, whether foreign or Monegasque. Dividends received from these shareholdings are effectively taxed as:

Shareholding	Taxable base
Less than 35%	20% of the net dividend
Less than 50%	10% of the net dividend
50% or more	5% of the net dividend

If the above calculation produces a figure in excess of the actual expenses incurred by the

parent company in respect of its shareholding, then the amount included in taxable income is limited to the amount of those expenses. No foreign tax credit is allowed for dividend income taxed in this special manner.

Depreciation is allowed on either the straight line or the reducing balance method. There are no statutory rates of depreciation. The rates allowed for tax purposes vary according to the general practice adopted in a particular trade or industry. Examples of rates applied using the straight-line method includes:

	Rate %
Commercial buildings	2 to 5%
Industrial buildings	5%
Fixtures and fittings	10%
Office furniture	10% to 20%
Motor vehicles	20% to 25%

The value on which depreciation of a new private motor vehicle may be based is limited, depending on the vehicle's age.

Inventories are valued at cost or market value, whichever is lower.

There is no separate capital gains tax legislation. However, gains and losses on the disposal of assets are included in the taxable results of the period, and are subject to tax at the standard rate of 33⅓%. There are rollover relief provisions for gains realised from the disposal of fixed assets, if the gain is reinvested in fixed assets within a period of three years from the end of the period in which the gain was realised. Gains realised from the disposal of investments held for more than two years may also be rolled over, providing that they are reinvested in fixed assets within a period of three years.

Losses may be carried forward indefinitely and carried back for three years.

Foreign tax credits are not given against foreign trading income. This is because of Monaco's territorial system of taxation. Unilateral relief is given, without limitation, for foreign taxes levied on investment income such as dividends, interest, and royalties, with the exception of those dividends taxed in a special manner, as explained above.

There are no withholding taxes.

A tax credit is available for research expenditure.

### 6.3 Social security

Employers are required to make contributions to social security, pension, and unemployment organisations for each employee. In addition, the provision of life insurance cover and supplementary pension benefits is mandatory for executives. The total contributions are relatively high, potentially reaching 40% for employers and 15% for employees.

Because so many residents commute to work in France and Italy, Monaco has reciprocal social security agreements with both countries in place, so that contributions paid in one state are treated as qualifying contributions in the other state.

## 7. *Personal taxation*

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There is no income tax, capital gains tax, or wealth tax in Monaco. There is a limited form of gift and inheritance tax that applies to assets in Monaco.

Assets are exempt from the gift and inheritance tax if bequeathed or given to:

- A spouse, ancestors or descendants
- The local community
- Public hospitals
- Charitable organisations, or authorised private charitable foundations.

The rates of tax payable depend on the relationship between the donee and the donor or deceased. For example:

Relationship	Rate %
Brothers and sisters	8%
Uncles, aunts, nephews, nieces	10%
Other relatives	13%
Unrelated parties	16%

## 8. *Taxation agreements*

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	<b>Signed</b>	<b>Ratified</b>	
FRANCE	1963	1963	Taxation Agreement
FRANCE	1950	1953	Inheritance Tax Agreement
EUROPEAN UNION	2004	2005	Savings Directive
LUXEMBOURG	2009	2010	DTA
QATAR	2009	2010	DTA
SEYCHELLES	2010	not yet in force	DTA
SAINT KITTS AND NEVIS	2009	2011	DTA
ANDORRA	2009	2010	TIEA
ARGENTINA	2009	2010	TIEA
AUSTRALIA	2010	2011	TIEA
AUSTRIA	2009	2010	TIEA
BAHAMAS	2009	2011	TIEA
BELGIUM	2009	not yet in force	TIEA
DENMARK	2010	2010	TIEA
FAROE ISLANDS	2010	2011	TIEA
FINLAND	2010	2010	TIEA
GERMANY	2010	not yet in force	TIEA
GREENLAND	2010	not yet in force	TIEA
ICELAND	2010	2011	TIEA
LIECHTENSTEIN	2009	2010	TIEA
NETHERLANDS	2010	2010	TIEA
NORWAY	2010	2011	TIEA
SAMOA	2009	not yet in force	TIEA
SAN MARINO	2009	2010	TIEA
SWEDEN	2010	2010	TIEA
U.S.A.	2009	2010	TIEA



## 9. Other taxes

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### 9.1 Value Added Tax (VAT)

VAT is levied in Monaco on the same basis and at the same rates as in France, according to the customs union between the two countries. Monaco is therefore indirectly subject to the provisions of the European Community Sixth Directive as amended, without actually being a member of the Common Market.

Goods physically in Monaco and supplied there by an enterprise fall within the scope of the tax. Goods exported from Monaco to a foreign country (other than France) are zero-rated, subject to certain conditions.

The general principle with regard to the supply of services is that they are considered to be made where the supplier has its head office. However, many services when supplied to an overseas person are zero-rated.

The following rates of VAT are currently applied:

Rate:

- 19.6% - Standard rate for the supply of goods and services
- 5.5% - Various goods and services, such as foodstuffs, water, books, transport, and entertainment
- 2.1% - Daily newspapers and periodicals.

### 9.2 Registration Duty (Droit d'enregistrement)

Registration duties are levied on the transfer of certain property in Monaco. Here are some examples of the rates applied:

	<b>Rate %</b>
Transfer of real estate in Monaco	7.5/4.5
Transfer of shares in a real estate company, which owns real estate in Monaco	4.5
Leases of real estate for life or unlimited duration	6.5
Leases of movable property for unlimited duration	5.0
Leases of real estate and movable property for limited duration	1.0
Subscription for shares on formation of a company	1.0
Transfer of shares and negotiable instruments	1.0

In the case of a SAM (Corporation), submitting the transfer of shares to registration formalities, so the tax is optional, is not required.

### 9.3 Stamp Duty

Stamp duties exist in Monaco. However, they are much less significant than registration duties, and are normally fixed in amount.

## *10. Portfolio investments for foreigners*

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There are no restrictions on the acquisition of real estate or on portfolio investments in Monegasque companies. As there is no income tax or capital gains tax, Monaco is an attractive place for such investments.

Bank accounts offer security and confidentiality and, due to the large number of international banks present, interest rates on bank deposits are competitive. No withholding tax is levied on interest derived from such deposit accounts, unless it falls within the scope of the EU Savings Directive, whereby a rate of 35% will be applied.

### **Anti-money laundering legislation**

Banks, insurance companies, asset management companies, entities which manage and administer foreign legal entities, chartered and qualified accountants, real estate agents, notaries, lawyers, bailiffs, traders, and people dealing with the sale of precious gems, precious materials, antiques and paintings must all comply with anti-money laundering legislation.

The identity of customers is thoroughly checked and subject to strict compliance and due diligence requirements.

Information collected is kept confidential and may only be communicated to the Financial Circuits Information and Control Department (SICCFIN).

## 11. Trusts

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Monaco is one of the few civil law countries in the world to have a trust law. Under this trust law a foreigner (resident in Monaco) whose country of nationality recognises trusts is entitled to establish a trust to dispose of his assets in accordance with the laws of his or her country of nationality. The trust may be either inter vivos or testamentary and presents a method for a foreign national to avoid the forced heirship provisions contained in Monegasque succession law.

The deed creating an inter vivos trust is subject to a Registration Duty, varying from 1.3% to 1.7% depending on the number of beneficiaries mentioned in the deed. If a trust is made by will, inheritance tax is levied on beneficiaries at the normal rates applicable in the case of a will or intestacy.

The principal trustee is chosen from a list of corporations established by the President of the Monegasque Court of Justice. The settlor is, however, free to choose one or more individual co-trustees.

## *12. Practical information*

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### **12.1 Communications and transportation**

Monaco has excellent postal and telecommunication services. In addition, private international courier firms collect documents daily in Monaco for delivery throughout the world. Monaco is linked to the French road and rail systems, and within a few kilometres there is access to the European motorway system. The international airport of Nice is 25km away, and there is a regular helicopter service between the airport and Monaco, which takes about seven minutes.

### **12.2 Language**

The official language is French, although English and Italian are widely spoken.

### **12.3 Time relative to Greenwich Mean Time (GMT)**

Monaco is one hour ahead of GMT between the start of November and the end of March, and two hours ahead (GMT + 2) between the start of April and the end of October.

### **12.4 Business hours**

Office working hours are normally Monday to Friday 9am to 6pm, and shops open Monday to Saturday 9am to 7pm.

### **12.5 Public holidays**

- New Year's Day - 1 January
- Sainte Devote - 27 January
- Easter Monday
- Labour Day - 1 May
- Ascension (Thursday) - 6<sup>th</sup> Thursday after Easter Sunday
- Pentecost (Monday) - 8<sup>th</sup> Monday after Easter Sunday
- Corpus Christi - 9<sup>th</sup> Thursday after Easter Sunday
- Assumption of Our Lady - 15 August
- All Saints' Day - 1 November
- National Day - 19 November
- Immaculate Conception - 9 December
- Christmas Day - 25 December