



Trust – Changes about information to report in the annual declaration

March 2019

The 2019 Finance Act modified the content of the annual declaration related to trusts.

Background

Under the provisions of the French General Tax Code, two returns related to trusts must be filed:

1. An “event-related” declaration which must be filed when the trust is set up, modified or dissolved;
2. An annual declaration of the market value on 1 January of the assets and rights placed in the trust and their capitalized income.

The trustee must file these two returns when at least one the following conditions is satisfied:

- The trustee is a French resident for tax purposes; or
- The settlor is a French resident for tax purposes; or
- At least one of the beneficiaries is a French resident for tax purposes; or
- At least one of the assets or rights placed in the trust is located in France.

With the introduction of the new tax on real estate assets as of January 2018, the content of the annual declaration related to trusts was limited to real estate assets and rights that are in the scope of the new tax.

As of 2019

The 2019 Finance Act modified, again, the content of the annual declaration to restore the reporting obligations as before the creation of the tax on real estate assets for the return to send for 2019 and specifically

- If the settlor of the trust or the beneficiary deemed to be the settlor or at least one of the beneficiaries is a resident of France for tax purposes, all the assets and rights situated in France or outside France and their capitalized income must be reported in the annual declaration;
- If none of them is a resident of France for tax purposes, only the assets and rights situated in France and their capitalized income must be reported.

This annual return needs to be filed every year before 15 June.

The non compliance with this formality is punished by a fine of €20,000. If tax is due, the tax is increased by 80% with a minimum of €20,000.

In addition, the tax authorities can audit the 10 last years instead of the last 3 years.

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