



New amendments about the tax filing obligations of the trustees in France

May 2020

Article 13 of the regulation dated 12th February 2020 on reinforcement of the national provisions against money laundering and the financing of terrorism (transposition of the EU Directive 2018/843) enlarges the list of disclosure to the French tax authorities and creates a new case where the trustees may have to send a French return.

Background

Article 1649 AB of the French tax code requires the trustees to fill in two types of returns:

1. An “event-related” declaration when the trust is set up, dissolved and each time there is a modification. This return must be sent within one month following the event date.
2. An annual declaration to report the market value on 1 January of the assets and rights placed in the trust and the capitalised income before the 15th of June (only the French situs assets and rights must be disclosed when there is no French resident for tax purposes).

The trustees must send these returns when one of the following cases is met at least:

- ✓ The trustee is 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 in France.

In both returns, the identity of the trustees, settlor and beneficiaries must be reported.

The term “trust” includes also any similar entities that enter the scope of the French definition.

Amendments

All the “beneficial owners” of the trust must be disclosed. It covers trustees, settlors and beneficiaries **but also the protectors and all individuals who exercise an effective control on the trust or who perform similar duties.**

Besides, **these trust obligations are extended to the trustees established or residing in or outside the EU when they acquire a real estate property or enter into a business relationship in France.** Although the scope of this definition has not been precised, we may consider that a business relationship exists when a professional or commercial relationship is initiated and is expected to last for a certain time.

Trustees liability regarding reporting obligations are extended in France. Not only the non-compliance of the trust reporting obligation triggers a penalty but also in case the information provided in the trust returns are not complete and accurate.

Please note that we are still waiting from the Decree as well as the updated version of the Trusts returns to applicate these new obligations. **Deadline for filing the annual return is the 15th of June 2020.**

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