

Filing Obligations for Trusts in France: Annual Filing Deadline On 15 June

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The annual filing imposed on trustees must be submitted by 15 June on new, dedicated forms published by the French tax authorities, and in the French language.

The Decree no. 2013-949 dated 23 October 2013 and the Anti-Tax Evasion Act dated 6 December 2013 have introduced various amendments to the disclosure requirements imposed on trusts in France.

Filing Requirements

The amended finance law for 2011, dated 29 July 2011, introduced a set of tax rules that apply specifically to trusts. These rules also included disclosure requirements imposed on trustees of trusts, where the settlor and/or the beneficiary is a French resident for tax purposes, or where the trust's assets include assets located in France.

The amended finance law for 2011 created two filing obligations. The first filing is required upon the creation, amendment or termination of the trust (the event filing), and the other is required on an annual basis (the annual filing) to be met on or before 15 June of each relevant year.

The Anti-Tax Evasion Act extended the scope of the event filing to trusts for which the trustee is a French tax resident.

As a reminder, the event filing must include

1. The identity of the settlor(s), beneficiary(ies) and trustee
2. The name and address of the trust
3. The terms of the trusts, including the trust agreement and all further amendments related to the functioning of the trust, specifically whether or not the trust is revocable or discretionary
4. The nature and date of the event that gave rise to the event filing

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5. An estimation, on the date of the event that gave rise to the event filing, of the value of the assets and rights transferred to the trust or distributed by the trust
 6. For each asset and right in the trust, the identification of the person who transferred the asset into the trust
 7. For each asset and right distributed by the trust, the identification of the beneficiary(ies).

The annual filing must include all the information required in 1, 2 and 3 above, plus

- If at least one of the settlor(s) or beneficiary(ies) is a French resident for tax purposes, the following is also required:
 - A detailed inventory of any capitalised income and the assets and rights held in trust, whether located in or outside France
 - The fair market value of these assets, rights and capitalised income, as at 1 January of the relevant year.
- If none of the settlor(s) or beneficiary(ies) is a French tax resident, the following is also required:
 - A detailed list of the assets and rights held in trust that are located in France (except financial investments), and any capitalised income
 - The fair market value of these assets, rights and capitalised income, as at 1 January of the relevant year.

It is worth noting that the information required by law must now be provided on new, dedicated forms published by the French tax authorities, and in the French language (Decree no. 2013-949 dated 23 October 2013, effective for filings that must be made on or after January 2014).

Penalties

The Anti-Tax Evasion Act has increased the penalty for failure to meet these disclosure requirements, from whichever was the higher of €10,000 or 5 per cent of the fair market value of the assets held in trust, to whichever is the higher of €20,000 or 12.5 per cent of the fair market value of the assets held in trust. It is worth noting that both the settlor(s) and the beneficiary(ies) of the trust are jointly and severally liable for the payment of this penalty.

Register of Trusts

A new public register of trusts has been created to compile the information disclosed by trustees, *i.e.*, the identity of the trust and its settlor(s), beneficiary(ies) and trustee and the date of creation of the trust. The method for consulting this register will be detailed in a separate, forthcoming decree.

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