

ACCOUNTS ABROAD : TIME TO REGULARIZE WHAT ARE THE OBLIGATIONS ?

Pour toutes questions :

ROCHE & Cie

40, Rue du Président Herriot
69 001 LYON

☎ : +33 4 78 27 43 06

@ : braultmuriel@cabinet-
roche.com

All persons, associations or companies not in commercial form are obliged to declare annually, together with their income, the bank accounts held abroad (CGI, art. 1649 A, paragraph 2), Including life insurance contracts taken out of organizations outside France. This also applies to persons who have power of attorney on such accounts.

The statement of account must be completed with the following elements:

- 1 - The name and address (number, street, town and country) of the person who opened the account.
- 2 - The precise designation of the account: number; Nature (ordinary account, savings, term); Use (private or professional use); Type (single account, joint account between spouses, collective account opened in the name of several holders, succession accounts); Opening date and / or closing date.



The declaration may be made either on the form entitled "declaration by a resident of an account opened outside France" (No. 3916) or on a free paper containing the particulars of this form. It must be attached to income tax return 2042.

What are the penalties for non-reporting?

As regards the failure to produce the declaration, the legislature provided for a system of penalties:

- A fine applicable in each year not prescribed equal to 1,500 € in the general case or 10,000 € in the case where the account is held in a State or Territory which has not concluded an agreement with France Administrative measures to combat tax evasion and avoidance;
- A simple presumption of taxable income, that is to say that transfers of cash drawn from amounts drawn from an account opened abroad and deposited in accounts held by the taxpayer in France are considered as Being taxable income. The corresponding tax reminders are accompanied by an increase of 40%. They also give rise to interest on late payment;
- Automatic taxation in the event of failure to reply to a request for justification; The property of occult origin is assumed, until proof to the contrary, to have been received free of charge and is automatically taxed at the rate of 60%.

Taxpayers who have not regularized their situation are also liable to criminal prosecution for tax evasion in case of discovery, punishable by up to € 500,000 in fines and five years in prison (article 1741 of the Code General of Taxes).

What if you have un-reported accounts?

It is also possible to benefit from a preferential treatment in case of spontaneous regularization, via the Service for the processing of Corrective Declarations (STDR), attached to the Directorate General of Public Finance (DGFIP). Indeed, by regularizing before a tax inspection or discovery linked to the exchange of information, the taxpayer can thus avoid criminal prosecution (except in the case of occult or illegal activities) and suffer only financial penalties attenuated.

In the absence of a declaration, in addition to default interest, fraudulent taxpayers will be fined 40% (or 80% in case of abuse of rights) by the tax authorities, as against 25% for passive fraudsters and 35 % for active fraudsters, in case of regularization.

There is also a fine for failure to declare € 1,500 or € 10,000, depending on the geolocation of the undeclared account (this fine is limited to 1.5% of the value of assets held for passive fraudsters and 3% for active fraudsters).

In addition, limitation periods are extended to 10 years for income tax, ISF or registration fees.

Bercy believes that the regularization service will soon have no reason to be with the progressive implementation of the automatic exchange of data between tax administrations..

Is there really a risk?

Many Swiss banks have set up a voluntary reporting program with the automatic exchange of information with the French tax authorities. This program includes the disruption of relationships with "non-compliant" customers.

Switzerland is not the only country to have accepted the automatic exchange of tax information. Fifty-five states (including France) have committed to apply automatic exchange as early as 2017 and another forty-six as of 2018.

The end of banking secrecy is coming soon.

In these circumstances, it is only a matter of time before taxpayers who have not reported their accounts abroad are identified by the authorities.



TAXATION OF SAVINGS AND PATRIMONY WHAT DO THE FINALISTS OF THE FRENCH ELECTION PROPOSE

I.S.F. or wealth tax; not to be deleted any soon

Marine Le PEN believes its removal is not a priority.

Emmanuel MACRON wishes to transform the ISF into a tax on "real estate rent", leaving the movable property, savings or financial investments out of their perimeter.

Income Tax: scattered changes

Marine Le PEN would like to:

- * Restore the half-share of widows and widowers.
- * Defiscalize the increase in retirement pensions for parents of large families.
- * Full exemption from capital gains on the sale of shares and shares of SMEs and SMIs after seven years.
- * Defiscalize overtime and maintain premiums (restoration of social welfare exemptions on overtime.
- * Decrease the first 10% of income tax by 10%.
- * Return on the introduction of the levy at source.

Emmanuel MACRON proposes:

- * The single flat-rate levy of about 30% on all income from movable capital (dividends, interest, capital gains, etc.). Life insurance is also concerned.
- * Transformation of the Energy Transition Tax Credit (ISCED) as a bonus is immediately noticeable at the time of construction and not the following year.
- * The possibility of individualizing tax returns for married or pacsed couples.

Transmission of heritage: few propositions

Marine Le PEN proposes an increase in the ceiling of donations without taxation to grandchildren to 50.000 € every five years (against 31.865 € every 15 years now).

A donation of € 100,000 in child tax exemption would also be possible every 5 years (as opposed to every 15 years now).

Real Estate

Marine Le PEN proposes to reduce of 10% the transfer tax. She will maintain other property tax provisions.

Life insurance : timid proposals

Marine Le PEN wishes that "The European banking union directive and the provision of the Sapin II law which provide for the collection or freezing of life insurance contracts in the event of a threat of banking crisis" be repealed.

Emmanuel MACRON proposes to increase the taxation of life insurance gains for "future flows" only and in excess of € 150,000 in payments

Local taxes: similarities

Marine Le PEN is for a reduction of the housing tax of the most modest people.

Emmanuel MACRON is for an exemption from the housing tax for 80% of the French.