

FURNISHED OWNERS ... HAVE YOU THOUGHT ABOUT THE DECLARATION AT THE TOWN HALL?

For any questions :

ROCHE & Cie
40, Rue du Président Herriot
69 001 LYON

☎ : +33 4 78 27 43 06

@ : braultmuriel@cabinet-
roche.com

After the publication of the so-called "Airbnb decree" of April 28, 2017, the cities with more than 200,000 inhabitants have the possibility to oblige the owners of furnished apartments to declare themselves at the town hall.

This statement makes it possible to ensure that those who rent their main residence do not exceed a maximum of 120 days per year, but also to verify compliance with the tax rules.

Which cities are concerned?

Bordeaux, Paris, Nice and Strasbourg have already announced their intention to implement this provision. Other cities such as Toulouse, Marseille or Lyon are still at the reflection stage.



What should be declared?

In general, the teledeclaration mentions :

- The identity, postal code and electronic address of the declarer.
- The address of the rented premise, precising, whether it is in a building composed of several premises, the building number, the staircase, the floor and the apartment number
- Its principal residence status or otherwise;
- The number of rooms making up the flat, the number of beds and where applicable, the date of the classification decision and the level of classification or any other quality recognition of the tourist accommodation.

What are the sanctions?

Anyone who violates these provisions is liable to a fine of € 25,000 and to a return to the home-use of the premises transformed without authorization, within a fixed period.

After this period, a penalty payment may be imposed against the lessor for a maximum amount of 1,000 euros per day of delay and per square meter until full regularization.

In the absence of regularization, the administration may order the eviction of the occupants at the expense of the offender.

THE ADVANTAGES OF THE INTERNATIONAL WILL ?

Since August 17, 2015, the date of entry into force of the European Regulation 650/2012 on succession, the law applicable in France by default to a succession having an extraneous link is that of the State in which the deceased had his habitual residence at the time of death or, exceptionally, the law of the State with which the deceased had manifestly closer links.

The question of the applicable law is important in a Franco-American context. The two systems of transmission are opposed: on one hand, the common law system - an indirect transmission system appealing to the courts and privileging testamentary liberty, and, on the other, the French system of law - the spouse and the heirs directly apprehend the assets of the estate and the assets of some heirs are protected.

It is possible to neutralize the applicable law of succession and to submit your future succession to the law of the State of your nationality on the day of your choice or on the day of death. This choice makes it possible to better control, anticipate and plan your succession. It must be done expressly in the form of a disposition on the ground of death, a will, or an inheritance pact.

Outside the borders of Europe, it is necessary to ensure that the form of the choice expressed is recognized. Thus, some States of the United States do not recognize any form of foreign holograph wills, even valid according to their places of execution. A local will can then be the solution for the transmission of the local goods. Nevertheless, the problem of the coordination of the various testamentary dispositions arises.

In order to avoid the multiplication of wills, a solution can naturally be found in the drafting of an international will resulting from the Washington Convention of October 26, 1973. Its aim is to simplify testamentary estates in a transnational context.

The international will fulfills strict formal requirements: in particular, it must be in writings (handwritten or typed) in any language, signed by the testator in the presence of two witnesses and a person authorized to instruct him to do so. A certificate certifying compliance with the requirements of the Washington Convention shall be attached to the will.

This testament has the advantage of being valid in France and in a large number of American states like California or Florida.

Nevertheless, there is a need for joint work by local legal practitioners to ensure full implementation of the provisions.

