

Declaring your French Inheritance tax: take your time!

French IHT should be declared and paid within 6 months if the deceased was resident of France at the time of the death (one year otherwise). The rate of tax depends on the beneficiary's relationship with the deceased and ranges from 5% to 45% between parents and children (sliding scale). Penalty for late declaration is 10% and a 0.40% interest applies.

When the estate includes a property, the subsequent sale may be subject to CGT if the price appears to be higher than the value indicated on the IHT declaration.

The timing of your declaration and values indicated should therefore be carefully considered.

In this respect, by decision of February 1, 2012¹ the French Administrative Court of Appeal of Paris has confirmed the French Revenue's position rejecting the value resulting from an amended Inheritance Tax (IHT) declaration for Capital Gains Tax (CGT) purposes.

The case arose when the beneficiaries sold the deceased's property a year after his death for twice the value initially declared.

In order to reduce their CGT liability (32.5% for French residents), the beneficiaries sent an amended IHT declaration paying the additional tax. (Presumably their IHT liability would have been lower than 32.5%).

The French Revenue rejected the reassessment and applied CGT on the sale price based on the initial value declared.

The Administrative Court of Appeal confirmed the position on the grounds that the French Revenue is entitled to reject the value stated in the amended declaration where the purpose of the reassessment is to reduce CGT exposure.

The decision does not comment on the refund of the additional IHT paid with the amended declaration which should normally be granted.

This could however lead beneficiaries to delay sending their IHT declaration when the intention is to sell the property and the value is difficult to assess.

For further information please contact:

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¹ n°10PA02417,