



Obligation to Report the Settlement of a Foreign Trust

S. 896A Taxes Consolidation Act 1997

S896A(2) Taxes Consolidation Act 1997 introduced an obligation for returns to be made by third parties (such as solicitors, tax advisors and banks) in relation to settlements involving non-resident trustees. The return should be sent to Revenue within 4 months of the date on which the settlement is made. The onus is on the third party to deliver the information without any prompting or request from Revenue

The legislation provides that a return should be made where any person, in the course of a trade or profession carried on by him, has been concerned with the making of a settlement and knows or has reason to believe that, at the time of the making of the settlement:-

- the settlor was resident or ordinarily resident in Ireland, and
- the trustees of the settlement were not resident in Ireland.

The information to be delivered in respect of each settlement is:-

- the name and address of the settlor,
- the names and addresses of the persons who are the trustees of the settlement, and
- the date on which the settlement was made.

The Revenue has published FAQs on the reporting obligation which include a note on the obligations of an advisor who gives preliminary advice on a settlement, but who is not involved in the setting up of the settlement. (see <http://www.revenue.ie/en/practitioner/investigations/trusts/faqs-third-party.html#section5>)

Revenue FAQ: Preliminary advice [e.g. tax, trust, legal, financial or accounting] has been given by an adviser on a proposed settlement by a client. What are the reporting requirements?

Where an adviser gives advice in relation to a proposed settlement by a client and the proposed settlement is subsequently made or created the adviser has been “concerned with the making of a settlement”.

If the adviser knows that the settlement has been made and also knows or has reason to believe that, at the time of the making of the settlement, the settlor was resident or ordinarily resident in the State and the trustees were not resident in the State the adviser has a reporting obligation under section 896A.

Having regard to their professional relationships with clients, including statutory obligations, advisers would normally be expected to know if a settlement had been made. However, if the adviser does not know that a settlement has been made he does not have a reporting obligation.



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