

Mon Dieu! Your Client is Now the Beneficiary of an Offshore Trust

Your client, Jean-Paul, just learned that a relative in France (Uncle Pierre) has died, leaving him the sole beneficiary of the Gemini Trust. Jean-Paul, although born in France, came to the US as a student, married a US citizen and in time, became a naturalized citizen himself. Pierre established the Gemini Trust years ago in Jersey (one of the Channel Islands) since France does not recognize personal trusts. This structure allowed Pierre to avoid French forced heirship laws which otherwise limited his testamentary freedom. The Gemini Trust also allowed Pierre a means to shield his global wealth held outside of France from excessive taxation there, including the despised *impôt de solidarité sur la fortune*, the French wealth tax.

A private trust company in Jersey serves as a trustee. The Gemini Trust owns bank and brokerage accounts in a Swiss bank and some private offshore holding companies, each of which owns a prime commercial property in a major European city.

For purposes of this article, a “US person” generally means a citizen or resident alien as defined in § 7701 (b) (1)(A) of the Internal Revenue Code (“Code”). As JeanPaul will soon see, the Code can greatly complicate life for US persons with overseas activities or holdings. In particular, the failure of US persons to comply with various return filing requirements under federal law can produce harsh monetary penalties and possible criminal sanctions. This article discusses some of the more important of these requirements.

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