

TRUSTS

TRUST REGISTRATION SERVICE (TRS): CHANGES TO THE TRUSTEES' REQUIREMENTS



Background

Legislation was introduced in July 2017, which requires 'express' trusts with a UK tax liability, to submit, electronically, accurate information of the beneficial owners to HMRC through the TRS. This includes both UK and non-UK trusts with a UK tax liability.

Express trusts are generally trusts that have been deliberately set up, rather than 'resulting' or 'constructive' trusts that arise by operation of law in situations where the person holding property has a responsibility to other people with a beneficial interest in that property.

Extension to the Trust Registration Service

Aside from a number of exemptions, all existing UK trusts, as well as some non-UK trusts, will be required to register with HMRC, regardless of whether the trust has a UK tax liability.

Under the Fifth Money Laundering Directive, HMRC have extended the TRS to the following trusts:

- All UK express trusts (unless exempt) - see table.
- Non-UK express trusts (unless exempt) where one or more trustees are UK resident and that either hold an interest in UK land or enter into a business relationship with a relevant person (e.g. accountant or lawyer) in the UK.
- Non-UK express trusts where none of the trustees are UK resident and the trust acquires an interest in land.

Trusts exempt from registering

- Charitable trusts regulated in the UK
- Co-ownership trusts, where the trustees and beneficiaries are the same persons
- Child bank accounts
- Pilot trusts, set up before 6 October 2020 and holding no more than £100
- Trusts holding a registered pension scheme
- Life insurance policy trusts - if paid out on death and distributed within 2 years
- 18- 25, Bereaved minor and Vulnerable beneficiary trust
- Trusts created by legislation, or imposed by courts
- Certain trusts incidental to commercial transactions

The above list is not exhaustive and there are other, less common, express trusts, which are set up for a specific purpose, that are also exempt.

Any trust that would otherwise be exempt will still need to register if it incurs a UK tax liability.

Further clarification can be found in legislation, or please contact your Moore adviser.

When to register

Any taxable UK trust should already be registered on the TRS.

Non taxable trusts in existence on or after 6 October 2020 must register by 1 September 2022.

Trusts created on or after 4 June 2022 must register within 90 days of creation.

Information required

When registering a trust, HMRC will require details relating to the below:

- The trust
- The trustees
- The settlor
- Named beneficiaries
- Class of beneficiaries
- Mental capacity of all individuals
- Protectors

Use of information

The new rules will allow HMRC to give information to an outside party in specific limited circumstances. In addition, trustees will use the register to share their own information with an obliged entity.

There are 2 types of requests for information from the register:

1. Legitimate interest requests
2. Third country entity requests

The information provided about each beneficial owner will be their name, month and year of birth, country of residence, nationality, and their role in the trust. For companies and other legal entities, the information will be limited to their name, office address and nature of their role in the trust.

The information will not be shared by HMRC about the beneficial owner if:

- They are under 18
- Lack mental capacity
- They are deemed at risk if the information were to be released, e.g. blackmail, violence, intimidation, extortion

Trustees have a legal duty to comply with HMRC reporting requirements.

If the trust is required to register, it is important to gather the information required in good time, in order to leave sufficient time for registering the trust before the deadline.

Failing to register a trust or a failure to notify any change of information by the due date can result in penalties.

If you need assistance please contact a Moore adviser who will be able to provide guidance, as a trusted adviser.

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