

## TRUST REGISTRATION SERVICE – DEADLINE 1 SEPTEMBER 2022



The Trust Register was introduced in June 2017 following adoption of the Fourth Anti-Money Laundering Directive, to improve transparency around the beneficial ownership of assets held in trusts with trustees required to provide details of the trust itself (including its tax residence status and the assets it holds).

As announced by the Government, from 6 October 2020 as part of the implementation of the Fifth Money Laundering Directive (5MLD), the Trusts Registration Service's (TRS) registration requirements have been extended to all UK and some non-UK trusts that are currently open, whether or not the trust has to pay any tax, but with some specific exclusions.

The online registration for these new trusts opened on 1 September 2021. Trustees can now register trust details via the Government website, GOV.UK.

### Deadlines you should be aware of

- Express trusts were required to be registered on the Trust Register by 10 March 2022, HMRC, however, has announced that the deadline for registering a non-taxable trust has been extended. If the trust under your control was in existence on or after 6 October 2020, then you have until 1 September 2022 to register.
- If a UK, or non-UK, trust triggers an obligation to enrol on the Trust Register on or after 3 June 2022, the deadline is 90 days from the event that triggered the obligation. This rule still applies even if this is later than 1 September 2022.
- Please note that additionally, should any change of circumstances occur, the trustee will have 90 days from that date to update any relevant information on the Trust Register.

## Trusts Liable to Pay

A trust must register using the Trust Registration Service (TRS) if the trust is liable to pay any of the following taxes:

- Capital Gains Tax.
- Income Tax.
- Inheritance Tax.
- Stamp Duty Land Tax.
- Stamp Duty Reserve Tax.
- Land and Buildings Transaction Tax (in Scotland).
- Land Transaction Tax (in Wales).

## Trusts that need to be registered

- All UK express trusts, unless they are specifically excluded.
- Non-UK express trusts:
  - Acquire land or property in the UK.
  - Have at least one trustee resident in the UK and enter into a 'business relationship' within the UK.

Typical express trusts linked to financial planning that an IFA may need to review include:

- Unapproved pension schemes.
- Trusts holding life policy death benefits for more than 2 years.
- Trusts which hold bank accounts for adult children.
- Designated accounts set up for others e.g. regular savings plans or lump sum investments.
- Single premium bonds/capital investment bonds.
- Capital redemption plans.
- Loan trusts.
- Discounted gift trusts.
- Flexible reversionary interest trusts.

Life insurance and healthcare policies are subject to certain conditions, excluded from registration during the lifetime of the person assured.

- The policy must only pay out:
  - on the death, terminal or critical illness or permanent or temporary disablement of the person assured, or
  - to meet the cost of healthcare services provided to the person assured.

However, where a trust holds any other policy not meeting the above conditions or any other no-insurance assets, the exclusion does not apply.

This list is not exhaustive but all the above may now need the trustees to register under the HMRC TRS by 1 September 2022 or appoint an agent to do this as well as subsequent annual reviews.

If the trust needs a Unique Taxpayer Reference (UTR) for Self Assessment purposes, it must still register to get this, even if it is included in the list of trusts that are excluded (see below).

## Trusts that do not need to be registered

Certain trusts do not need to register unless they are liable to pay UK tax. These include:

- Trusts used to hold money or assets of a UK-registered pension scheme.
- Trusts used to hold life or retirement policies provided that the policy only pays out on death, terminal or critical illness or permanent disablement, or to meet the healthcare costs of the person assured.
- Trusts holding insurance policy benefits received after the death of the person assured, provided the benefits are paid out from the trust within 2 years of date of death.
- Charitable trusts which are registered as a charity in the UK or which are not required to register as a charity.
- ‘Pilot’ trusts which were set up before 6 October 2020 and which hold no more than £100 – those that were set up after 6 October 2020 will need to register.
- Co-ownership trusts set up to hold shares of property or other assets which are jointly owned by 2 or more people for themselves as ‘tenants in common’.
- Will trusts which are created by a person’s will and come into effect on their death provided they only hold the estate assets for up to 2 years after the person’s death.
- Trusts for bereaved children under 18 or adults aged 18 to 25 set up under the will (or intestacy) of a deceased parent or the Criminal Injuries Compensation Scheme.
- ‘Financial’ or ‘commercial’ trusts created in the course of professional services or business transactions for holding client money or other assets.

## Information Required

Trusts which do not have UK tax liabilities, and are therefore not UK taxpayers, only have to provide information pertaining to the beneficial owners of the trust and do not, for example, have to provide information about the trust assets.

However, trusts which have UK tax liabilities must provide more information on the Register than trusts that do not. This information includes the following:

- The name and date of the trust.
- Information pertaining to the trust assets – this includes their value.
- The place where the trust is resident/administered.
- Identity information regarding each of the beneficial owners of the trust, this must include details of the nature and extent of their beneficial ownership.

## Beneficial Owners – what does and does not qualify?

Beneficial owners include the settlor, the trustees and the beneficiaries. This also includes any individual that holds certain powers in relation to the trust; this could include:

- The ability to amend the trust.
- The ability to make distributions.
- The ability to change the trustees.

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Anybody who is required to consent to the conduct of these actions is also included in this categorisation. Therefore, a protector is usually included – as well as anybody named in a letter of wishes as a potential beneficiary.

However, HMRC do accept that a contingent beneficiary does not have to be named on the Register; that is until the contingency is satisfied. Members of a class of beneficiaries, who are also not named, do not have to be identified on the Register. This is determined on whether or not they receive a benefit from the trust – if they do then they too will have to be identified.

## We Can Help

We can assist you to understand the likely obligations under these new and sometimes complex rules.

If you would like help with your UK Trust Registration process, please contact us to speak to a member of our dedicated tax team, call us on **01753 888211** or email **[info@nhllp.com](mailto:info@nhllp.com)**