

Trust Registration Service (TRS) Guide

BACKGROUND

The TRS was set up by HMRC as part of the UK's compliance with the EU Money Laundering regulations, trusts are required to maintain records of their beneficial ownership. This is all part of the global drive towards increased transparency and reduction in tax evasion. The TRS provides a single point of access for trustees and agents to register and update their records online, this provides a more reliable service, removes the form 41G, risk of loss or delays and ability to print off a summary of your completed entry.

WHICH TRUSTS SHOULD BE REGISTERED

Express Trusts

- UK RESIDENT – Where there's liability to tax from income or assets
- NON-UK RESIDENT – Where there's a tax liability for UK source income or assets

PENSION SCHEMES – Set up as an express trust do not need registering if already registered under the Manage and Register Pension Schemes or Pension Schemes Online Services.

Bare Trusts

- Bare Trusts are not required to register as any tax liability is the beneficiaries.

Terminated Trusts

Trusts which are closed and have received a letter from HMRC acknowledging closure do not have to register.

WHO ARE THE BENEFICIAL OWNERS OF A TRUST

Beneficial owners include settlors, trustees, beneficiaries, protectors and any individuals with control/influence over the trust.

WHAT IS A TAXABLE TRUST

If trustees are liable to one or more of the taxes shown below in relevant taxes in a tax year, then the trust is taxable and has a taxable consequence.

WHAT ARE RELEVANT TAXES

- Capital Gains Tax
- Income Tax
- Inheritance Tax
- Land & Buildings Transaction Tax (in Scotland)
- Stamp Duty Land Tax
- Stamp Duty Reserve Tax or Stamp Duty

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WHEN TO REGISTER

TAX	LIABILITY	DEADLINE
Capital Gains Tax	New Liability	05-Oct
Income Tax		
Capital Gains Tax	Existing Liability	31-Jan
Income Tax		
Inheritance Tax with Capital Gains Tax or Income Tax	New Liability	05-Oct
Inheritance Tax without Capital Gains Tax or Income Tax	N/A	31-Jan
Stamp Duty Land Tax	N/A	31-Jan
Stamp Duty Reserve Tax or Stamp Duty	N/A	31-Jan

INFORMATION NEEDED TO REGISTER TRUST

- 1. FULL NAME OF TRUST**
- 2. DATE OF CREATION**
- 3. COUNTRY OF TAX RESIDENCY**
- 4. CORRESPONDENCE ADDRESS**
- 5. AGENTS' DETAILS**
- 6. TYPE OF TRUST:**
- 7. ASSETS** (Up to 10 Assets can be reported in each category)
 - a. Cash
 - b. Property Land
 - c. Shares
 - d. Business
 - e. Partnership
 - f. Other

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8. LEAD TRUSTEE - Full name, DOB, NINO, if non-UK passport or ID card details, Address, Telephone number & Email (optional)

9. ADDITIONAL TRUSTEES - Full name, DOB, NINO if non-UK passport or ID card details, Address, Telephone number & Email (optional)

There is a maximum of 5 trustees that can be reported, any additional trustees need to be reported in writing to HMRC.

10. SETTLOR- Full name, DOB, NINO, if non-UK passport or ID card details, Address, Telephone number & Email (optional). For deceased settlors name and DOB are required, but if the NINO is unknown answer 'No' and use the passport information, relevant country, reference enter DECEASED followed by the year they died with no spaces, Expiry date of passport put in the actual date of death. If DOB cannot be found then input 01/01/1900.

There is a maximum of 2 settlors that can be reported, any additional settlors need to be reported in writing to HMRC

11. PROTECTOR - Full name, DOB, NINO, if non-UK passport or ID card details, Address, Telephone number & Email (optional).

There is a maximum of 2 protectors that can be reported, any additional protectors need to be reported in writing to HMRC

12. NAMED BENEFICIARIES - Full name, DOB, NINO (address and passport if beneficiary doesn't have one)

13. MINOR BENEFICIARIES- Full name, DOB, passport, if no passport then address.

Both Named and Minor Beneficiaries will require confirming if they are vulnerable, Yes or No

14. CHARITY BENEFICIARIES - Charity name, address and Charity Number, UTR if known.

There is a maximum of 10 beneficiaries that can be reported, any additional beneficiaries need to be reported in writing to HMRC.

15. CLASSES OF BENEFICIARY - Refer to trust for details and select relevant option, the most common one is for unborn children or unidentifiable beneficiaries, spouses or widows/widowers, when children or grandchildren are born they need to be added to the register as known individuals.

CONFIDENTIALITY ISSUE

- Where a beneficiary is named on a trust instrument separate from the members of a named class they can be clearly determined and the relevant information must be provided for each named beneficiary.
- Where a beneficiary is unnamed and is simply part of a class of beneficiaries, the trustees only need to disclose the details of the beneficiary when they receive a benefit, financial or non-financial from the trust after 26 June 2017 the date the regulations came into force.
- In addition, potential beneficiaries, those who only become beneficiaries on a certain contingency, for example the death of a named beneficiary, can be part of a class without being named until the contingent event occurs.

CHANGES TO TRUST INFORMATION AFTER REGISTRATION

If your client's information changes, you must tell HMRC by 31 January of the tax year after either:

- the trust has been set up
- it starts to make income or chargeable gains, if this is later

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Write to HMRC to advise changes to the lead trustee name or trustee address.

Do not send changes other than lead trustee name or address. HMRC are consulting on changes to all other individuals in the trust.

PENALTIES

The regulations introducing the trustees' obligations to provide information, fulfilled by completing the TRS, also give the authority to charge civil penalties for non-compliance. The lead trustee may have to pay a penalty if they do not register the trust before the registration deadline.

If they do not register or update the information, and cannot show HMRC that they took reasonable steps to do so, the penalties are:

- £100 for registering up to 3 months after the deadline
- £200 for registering between 3 to 6 months after the deadline
- £300 or 5% of the total tax liability in the relevant year (whichever is higher) for registering more than 6 months after the deadline

Penalties will not be issued automatically and will be reviewed on a case by case basis.

HMRC will also take into account that tax year 2017 to 2018 is the first year that trustees and agents have had to meet the new registration obligations.

NOTIFICATION PENALTIES

The facility to tell us about any changes to a registration is not yet available.

HMRC will not charge penalties for failure to tell us about changes until this facility becomes available.

When the facility is available, the same penalties will be applied that are currently applied to the late registration of a trust.

MONEY LAUNDERING PENALTIES

HMRC can also charge penalties for money laundering offences, which are more serious than administrative offences.

HMRC will be consulting on the structure of these penalties later this year.

WHO HAS ACCESS TO THE TRS

At present, the register is not public and the information will only be available to law enforcement agencies in the UK and other EEA countries. This includes HMRC, the Financial Conduct Authority, the National Crime Agency, various UK police services and the Serious Fraud Office.

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