

IMPORTANT INFORMATION FOR TRUSTEES

Anti Money Laundering Regulations | Extension of HMRC's Trust Registration Service



WHICH TRUSTS NEED TO BE REGISTERED ON THE TRS?

The 2017 regulations only required taxable relevant trusts to register on the TRS. A UK express trust is likely to be classed as a taxable relevant trust if it has incurred any liability to income tax, capital gains tax, inheritance tax, stamp duty land tax (or Scottish or Welsh equivalents), or stamp duty reserve tax in recent years.

Broadly, an express trust is a trust created deliberately by a settlor, usually in the form of a document such as a written deed or declaration of trust. Express trusts may be set up during the settlor's lifetime or be written into the settlor's will to be set up after the settlor's death.

The amended regulations go further. A UK express non-taxable trust will need to register on the TRS, unless it is relieved by being categorised as an Excluded Trust, or it is an EEA registered trust.

Fortunately, there are many categories of Excluded Trust. We have given an overview below but in every case it is important to review the exact wording of the exclusion in the regulations and establish if it applies to the particular trust being considered. Some categories only apply for a fixed period of time, and after that period has expired the trust will need to be registered.

HOW IS A TRUST REGISTERED AND MAINTAINED ON THE TRS?

Trustees (or their appointed agent) register their trust and maintain the registration online using HMRC's system.

KEY DATES FOR NON-TAXABLE TRUSTS

Non-taxable trusts must register by 1 September 2022 or within 90 days of being set up if on or after 4 June 2022.

To ensure the TRS entries remain current, any subsequent changes need to be reflected within 90 days.

INTRODUCTION

The Money Laundering, Terrorist Financing and Transfer of Funds (Amendment) (UK Exit) Regulations 2020 came into force in October 2020. This amendment to the 2017 regulations brought the EU's Fifth Money Laundering Directive into UK law.

Under these regulations, trustees have various responsibilities including the need to compile and maintain particular records about their trust, to register their trust on HMRC's Trust Registration Service (TRS) when required and to subsequently maintain that registration.

Many more trusts have been brought within the scope of the regulations and hence the TRS. Such trusts may have never had any UK tax liabilities or any previous contact with HMRC, and their trustees may be surprised to find that they need to take action in this regard.

AM I A TRUSTEE OF A TRUST?

Here are a few examples of trusts that are relatively common in the UK:

- discretionary trust;
- interest in possession / life interest trust;
- discounted gift trust;
- loan trust;
- gift and loan trust;
- will trust;
- trust created by Deed of Variation to a will;
- bare trust;
- pilot trust;
- trust of land;
- a trust over a life insurance policy;
- a declaration of trust in respect of an asset such as a property, investment or bank account;
- trust created for property on a divorce.

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INFORMATION TO BE MAINTAINED ON THE TRS FOR NON-TAXABLE TRUSTS

This includes:

- the full name of the trust;
- the date on which it was set up;
- whether the trust has acquired UK land or property since 6 October 2020;
- lead trustee (name, date of birth, National Insurance number, full address, contact information, country of residence and nationality);
- all other trustees (name, date of birth, country of residence and nationality);
- similar details for settlors and beneficiaries;
- classes of beneficiary.

EXCLUDED TRUSTS

Twenty-three categories of Excluded Trusts have been provided for. These include the following:

- trusts imposed or required by an enactment;
- trusts created by, or in order to satisfy the terms of, an order of a court or tribunal;
- pilot trusts created prior to 6 October 2020 with assets valued at not more than £100;
- a bank account held in trust for the sole benefit of a minor or person lacking mental capacity;
- co-ownership trusts which hold jointly owned property where the trustees and the beneficiaries are the same people;
- a trust for a bereaved minor;

- an 18-25 trust;
- a trust which holds a life policy provided the policy only pays out on death, terminal or critical illness, or permanent or temporary disablement, or to meet the healthcare costs of the person assured;
- a trust which solely holds the benefits received from a life policy of the type above on the death of the person assured, and less than two years have passed since death;
- a trust created by a person's will, provided the trust is only holding the property comprised in a person's estate on death and less than two years have passed since death;
- a trust created to enable or facilitate a transaction effected for genuine commercial reasons where the use of the trust is incidental to the principal purpose of the transaction;
- a trust created on the transfer or disposal of an asset where the purpose of the trust is to hold the legal title until the procedure required by law to effect the transfer or disposal of the legal title is completed;
- trusts where a disabled person is the beneficiary, during the life of the disabled person.

ASSISTANCE WITH ENTRY ONTO THE TRS

Magma would be pleased to assist trustees with the registration process and advice related thereto. Please do not hesitate to contact us if you would like to discuss.

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