

Trusts - Trust Registration Service

Currently trustees or their agents must register a trust 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).

However, new rules were introduced on 6 October 2020, as part of the UK's implementation of the Fifth Money Laundering Directive (5MLD), which extend the scope of the trust register to all UK and some non-UK trusts that are currently open, whether the trust must pay any tax or not, but with some specific exclusions.

Trusts that need to be registered

These are broadly:

- 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.

If the trust needs a Unique Taxpayer Reference (UTR) for Self-Assessment purposes, it must still register to get this, even if it's highlighted in the exclusion list.

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, such as an occupational pension scheme
- trusts used to hold life or retirement policies providing 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, providing the benefits are paid out from the trust within 2 years of the 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 – pilot trusts 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 providing 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 18-25 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.

Other less common types of express trusts which are set up for specific purposes are also excluded from registration unless they have to be registered because they are liable to pay tax.

What you'll need to register

The trustees or agents will have to give some basic information about the persons involved in the trust (the settlors and beneficiaries), which may include, dates of birth and National Insurance numbers.

Requesting information on the register

Law enforcement agencies can already get information on the register about a trust and its beneficial owners to help counter money laundering and terrorist financing. 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.

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. HMRC will not give information about beneficial owners if they are:

- under 18
- lack mental capacity
- at risk of, for example, blackmail, extortion, violence or intimidation as a result of releasing that information.

When trusts enter business relationships with certain UK organisations (such as, solicitors or financial services firms), new rules require these organisations to confirm that the trust is registered on TRS before the relationship can start. Trustees will be able to download an extract from the register to confirm that the trust has been registered on TRS.

The next step

With a team of highly qualified tax advisers and as a registered agent with HMRC, we are well placed to advise on and complete all registration obligations on behalf of Trustees.

Please do get in touch with Rebecca Horne-Smith, Mark Duddridge, Philip Kinzett-Evans or Tom Annat should you require assistance on this, or any other trust matters and we will be happy to provide you with an outline of our services and a fixed fee quote for any work you would like us to undertake.



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