M+A Partners

Trust Registration Service

Have you registered your trust?

The Trust Registration Service is managed by HM Revenue & Customs to maintain records required under the Money Laundering Regulations. It records the beneficial ownership of assets held in trust so that if one person (the trustee) legally owns an asset there is a separate record of who actually benefits from the asset (the beneficiary).

Most UK trusts are required to be registered. Some deceased estates also need to be registered.

Trusts that need to be registered

Trusts that need to register fall in to three broad categories:

+ **All UK express trusts unless specifically excluded.** An express trust is one that is created deliberately by the settlor in express terms and usually in writing, as distinguished from one that comes in to being through the operation of the law, such as trusts set up under intestacy laws or personal injury trusts receiving funds under court order.
+ **Trusts that have a UK tax liability, irrespective of whether they are express or specifically excluded.** In other words, any trust with a UK tax liability needs to register. A UK tax liability refers to Income Tax, Capital Gains Tax, Inheritance Tax, Stamp Duty Land Tax (and its equivalents in Scotland and Wales).

Trusts that need to be registered

+ **Non-UK express trusts that:**
  + Hold an interest in land or property in the UK; or
  + Have at least one UK resident trustee and have a business relationship within the UK (such as having a UK accountant or adviser).

Common arrangements that will need to be registered

+ **Declarations of trust over land** (unless the trustees are holding exclusively for themselves);
+ **Investment bonds written in trust** (as part of Inheritance Tax Planning for example); and
+ **Bare trusts** (such as assets, other than bank accounts, held for minor children).

Registration deadlines

For all new trusts (and those created on or after 3 July 2022) - **90 days after creation.**

For trusts created before 3 July 2022 - **please consult our experts.**

Updates to registered trusts

Trustees are required to update their registration for any changes within 90 days of the date of change.

Deceased estate administration

An estate classed as 'complex' by HMRC must be registered in order to set up the required tax record and generate a Unique Taxpayer Reference for self-assessment. This is an administrative requirement of HMRC rather than under the Money Laundering Regulations.

As a separate issue, an express trust created by Will must be registered under the Money Laundering Regulations if it still exists two years after the date of death. Careful examination of the wording of the Will is needed to understand what type of trust is created and when it arises. Please consult our experts for further guidance.

Trustee requirement to maintain a written record

Irrespective of whether a trust is required to register on the Trust Registration Service (TRS) all express trusts are required by law to maintain accurate and up to date written records of all the actual and potential beneficial owners of the trust. The beneficial owners include all trustees, settlors, beneficiaries or any person who has control over the trust. This is required because law enforcement authorities are able to request this information from a trust. Please let us know if you have any questions in this regard.

Trusts that are specifically excluded (unless they have a UK tax liability)

+ Child bank accounts.
+ Co-ownership trusts set up to hold shares of property or other assets which are jointly owned by 2 or more people only for themselves as 'tenants in common'. This continues to apply for up to 2 years from the death of one of the co-owners.
+ Trusts imposed by S34 (2) of the Land and Property Act 1925 because there are more than four beneficial owners.
+ Trusts imposed by sch 1 (2) of the Trusts of Land and Appointment of Trustees Act 1996 because one or more of the beneficial owners is aged under 18.
+ Trusts used to hold a life or retirement policy paying out only on death, terminal or critical illness or permanent disablement, or a policy paying out to meet the cost of healthcare services.
+ 'Pilot' trusts which were set up before 6 October 2020 for a future use and which hold no more than £100. That might be a by-pass type trust for example. Pilot trusts set up after 6 October 2020 will need to register.
+ Will trusts which are created by a person's Will and come into effect on their death, providing the trustees only hold the estate assets for up to 2 years after the person's death. If the trust is still in existence after 2 years, it will need to register from that date.
+ Trusts arising from deeds of variation for up to 2 years after the person's death. If the trust is still in existence after 2 years it will need to register from that date.
+ A trust relating to the registration of assets, for example trusts set up to hold the legal title of an asset for the person to whom the transfer or disposal is being made.
+ 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.
+ Trusts for bereaved children under 18, and 18-25 trusts where a parent has died (s71A & s71D IHTA1984).
+ Trusts where a disabled person is the only beneficiary.
+ Trusts imposed by legislation (e.g. trust in bankruptcy) or court order (e.g. matrimonial proceedings).
+ Charitable trusts registered with Charities Commission or those not required to register under the Charities Act.
+ Employee share scheme trusts.
+ UK registered pension schemes.
+ Financial or commercial trusts created in the course of professional services or business transactions for holding client monies or other assets.
+ Approved maintenance funds for historic buildings.
+ Trusts registered on a European Economic Area (EEA) register (but non-UK trust holding UK land must still register).
+ One trust per settlor that meets all of the following:

  i) No interest in UK land or property.

  ii) Not have held assets worth >£10,000 since creation.

  iii) Not receive annual income >£5,000.

  iv) Not hold assets such as art/antiques worth >£2,000.

An excluded express trust will have to register if it becomes subject to UK tax.

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Our Vision - to be the firm of choice, through our team fulfilling their potential and delivering exceptional client service

How M+A Partners can help

Here at **M+A Partners** we have an experienced trust and estates team who will be pleased to answer any questions that you may have and support you in the registration process. This is a brief summary, for further information and advice please contact our experts.

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