



## Trust Registration Service: Important Changes

June 2022

The purpose of this communication is to notify you of the new online Trust Registration Service (TRS).

### What is the TRS?

In 2017, the Fourth Money Laundering Regulations required trustees of trusts which were taxable to register the trust's details with HMRC online on the TRS.

Under the 2020 Fifth Money Laundering Regulations, the requirement to register trusts with the online TRS has been expanded to all UK Express Trusts subject to a few exclusions.

The new Regulation was brought in following our withdrawal from the EU and requires HMRC to maintain a publicly accessible register of trusts and to allow access to that data to an individual or organisation that demonstrates a legitimate interest. The rules confirm the trustees' general duty to keep and maintain an up-to-date written record of the beneficial owners involved in the trust as well as people with control over the trust, such as trust protectors and appointors. This information must be made available on demand from a law enforcement authority and, from 1 September 2022, to other third parties who have a legitimate interest to access the trust's information.

### Which trusts must be registered with the TRS?

All UK Express Trusts which are not excluded need to be registered (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).

The most common types of trust that were not required to register previously, but are now caught by the new rules, include:

- Lifetime Discretionary Trusts created after 6 October 2020 and those created before 6 October 2020 that hold more than £100.
- Lifetime Interest in Possession Trusts created after 6 October 2020 and those created before 6 October 2020 that hold more than £100.
- Declarations of Trust, where the people registered as the owners are not exactly the same as those entitled to the asset.
- Discounted/Gift Trusts.
- Most Bare Trusts, for example, assets held on behalf of a minor, where they are beneficially entitled to the income and gains and where the legal title will pass when they reach the age of 18.
- Trusts created by a will which still exist two years after the deceased's death.

Trustees of trusts that are not required to register may want to consider 'voluntary' registration as a way to fulfil their general record keeping duties on the beneficial owners of the trust.

## **Which trusts are excluded?**

- Pilot Trust set up before 6 October 2022 holding no more than £100.
- Trusts holding assets for a disabled person.
- Personal Injury Trusts.
- Declarations of Trust (DoT) where the people registered as the owners are the same as those entitled to the asset, for example, where the DoT relates to a property and the people named with the Land Registry are the same as the DoT says should receive the net sale proceeds.
- Trusts created in the will of someone who has died BUT only for the period of two years from the date of death.
- Bereaved Minors Trusts and aged 18-25 Trusts.

Those trusts which are highly regulated elsewhere or registered elsewhere such as trusts created under an intestacy, a trust of a life policy where the life assured has not yet died and the policy has no value, and trusts set up by a court order to hold compensation payments.

## **The rules for trusts created post 1 September 2022**

If they are reportable, the trustees will have 90 days from the date of creation for the trust to register with the TRS.

## **Publicly Accessible Register, what does this mean?**

Requests for information are made to HMRC and can be a:

- Obligated entity request - this would be used by trustees to prove information on the TRS, for example, where they are instructing new Solicitors.
- Legitimate interest requests - made by individuals or organisations who have an interest in a specified Trust, for example, conducting an investigation into money laundering.
- Third country entity requests - where a trust holds a controlling interest in a non-EEA company or other legal entity.

HMRC can reject requests for information relating to a person who is under 18, lacks mental capacity or by giving the information a person is at risk of blackmail, extortion, violence or intimidation.



## Registration

The registration of any trust caught by these rules needs to take place no later than 1 September 2022.

HMRC has produced a Trust Registration Service Manual which can be accessed on their website [here](#).

## What happens after registration?

There is an ongoing reporting requirement so regular reviews will be needed to ensure everything is reported properly.

Any change to the trust must be reported on the TRS within 90 days.

## Professional advice

PWM does not provide legal and taxation advice and trustees should either make their own arrangements or request the assistance of their accountants or lawyers to register with the TRS.

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