



# NEW TRUST COMPULSORY REGISTRATION

**Some time ago HMRC announced that all trusts will need to be registered with only a few exemptions. Prior to that only those trusts where tax was payable (e.g. it received rental income from a property) had to be registered with HMRC. This has now been expanded. As from 1<sup>st</sup> September 2022 the majority of trusts in the UK will need to be registered.**

Almost every trust, regardless of its size or type will need to use HMRC's Trust Registration Service (TRS) including now non-taxable trust by 1<sup>st</sup> September 2022.

It is vital that if you have trust this should be registered. We set out below some of the rules and the ways that we can help you and how the changes affect you and your trust.

## The new rules – in outline

- 1 Taxable trust e.g. which have to pay income tax or capital gains tax on gains or liable for Inheritance Tax are now referred to as "registerable taxable trusts" under the new TRS rules and you must keep details updated and make annual declarations by 31<sup>st</sup> January and continue to do so as long as the trusts are taxable.
- 2 All other trusts save for a Limited number of exempt categories are known as "registerable express trusts" these now need to be registered by the 1<sup>st</sup> September 2022 but with a reduced amount of information required. The specified information includes details of the trustees, beneficiaries and any UK land or property held by the trust. This applies even if the trust was set up many years ago.
- 3 From 1<sup>st</sup> September 2022 non-taxable trusts which include;
  - None UK express trust that acquire land or property in the UK; or
  - Have a least one trustee resident in the UK and enter into a business relationship within the UK.

Will also have to be registered.

It should also be remembered that trusts may switch between the different sets of rules and this depend on whether they are liable to pay one of the specific taxes that causes them to be registerable taxable trust. The information required and deadlines differ further adding to the complexities for trustees to consider.

## Which trusts are exempt from this change and from registering?

Certain trusts do not need to register unless they are liable to 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 cost of the person assured;
- Trusts that hold insurance policy benefits received after the death of the person assured, providing the benefits are paid out from the trust within two 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 are set out before the 6<sup>th</sup> October 2020 on which hold no more than £100;
- Co-ownership trusts set up to hold shares of property or other assets that are jointly owned by two or more people for themselves as Tenants in Common (e.g. many forms of jointly owned houses or land);
- Will trusts that are created by a person's Wills and come into effect on their death providing they only hold the estate assets for up to two years after the persons death;
- Trusts for bereaved children under 18 or adults aged 18 to 25 set up under a Will (or intestacy) or a deceased parent or the Criminal Injuries Compensation Scheme or;
- Financial trusts created in the course of professional services or business transactions for holding client money or other assets.

The rules are very complex and should always seek advice with regard to this. There are many common trusts which will now be caught under the new rules and will need to be registered these include the following:

- Bare trusts (unless they fall within one of the exclusions);
- Trusts holding investment bonds;

- Discounted Gift trust;
- Pilot trusts set up to receive pension death benefits and life assurance;
- All new Pilot trusts set up since 6<sup>th</sup> October 2022;
- Child ISA's (child trust funds per se are not caught);
- Co-ownership trusts (such as declarations of trusts over property where the trustees and beneficiaries are not identical. Situations that are likely to be caught within this category include cases where the number of trustees differs from the number of beneficiaries e.g. where a minor is a beneficiary and therefore cannot be trustee;
- Employee Benefit Trust and Employee Ownership Trust;
- Trust wound up in the period between 6<sup>th</sup> October 2020 and 1<sup>st</sup> September 2022 do also seem to be included unless fall within one of the exclusions.

## New trust post 1<sup>st</sup> September 2022 deadline

Any non-taxable trust created after the 1<sup>st</sup> September 2022 (and of course any taxable trust) must be registered within 90 days plus any trust which start to have a duty to register like Will trust continuing beyond two years after death. Any changes to the trust details or circumstances must also be registered within 90 days.

## Registering a trust

Trustees are obliged to register their trust. Trustees now have only approximately three months left to register these details. Therefore, trustees and company's operating trust or nominee arrangements should consider any trust arrangements in existence on or after 6<sup>th</sup> October 2020 and ensure that they are registered by 1<sup>st</sup> September 2022.

Failure to register on time could lead to action being taken against a trustee including potential penalties.

Here at Mackrell.Solicitors we are able to help you decide if your trust does need registration and dealing with the registration process itself. Please speak to us for more information.



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