



Trust Registration Service - Which Trusts Need to Register?

HMRC has published further guidance, together with its Trust Registration Service manual. They cover registration requirements and information needed to register a trust. Further details including deadlines, penalties and third-party information sharing provisions will be added later. This note considers which types of trust are required to register, and when.

It will be seen that the scope of the requirement to register is now quite broad. Many trusts (including bare trusts) which do not have a UK tax liability will shortly need to register with HMRC. This is to comply with the EU Fifth Anti-Money Laundering Regulations, which came into force in January 2020 and remain in force notwithstanding Brexit. It is expected that these non-taxpaying trusts will need to begin registering with HMRC later this summer.

As a first step, it is necessary to consider the definitions of express trusts and UK trusts.

Express Trusts

The rules distinguish between express trusts and those arising by operation of the law, for example implied or constructive trusts. Express trusts are created intentionally by a settlor, either during lifetime or in a will on death; they are usually evidenced by a trust deed or declaration of trust.

UK Trusts

A trust will be a UK trust if all the trustees are UK resident; conversely if all the trustees are resident outside the UK it will be a non-UK trust.

If there is a mix of UK resident and non-UK resident trustees, the trust is a UK trust if the settlor was UK resident and domiciled at the time the trust was created, or when the settlor or added funds. Otherwise, it is a non-UK trust.

Rawlinson & Hunter LLP

Eighth Floor
6 New Street Square
New Fetter Lane
London EC4A 3AQ
And at

Q3, The Square
Randalls Way
Leatherhead
Surrey KT22 7TW

T +44 (0)20 7842 2000
F +44 (0)20 7842 2080

hello@rawlinson-hunter.com
www.rawlinson-hunter.com

Partners

Mark Harris FCA
Kulwam Nagra FCA
Andrew Shilling FCA
Craig Davies FCA
Graeme Privett CTA
Chris Hawley ACA
Phil Collington CTA
Toby Crooks ACA
Michael Foster CTA
Paul Huggins ACA
Trevor Warmington CTA
James Randall FCA
Kristina Volodeva CTA
David Kilshaw
Alan Ive CTA
Catherine Thompson FCA

Directors

Lynnette Bober FCA
Karen Doe
Lynne Hunt FCA
Sarah Fernando CTA
Katharine Haggie FCA
Hiral Kanzaria ACA
Gillian Lawrence ACA
Nigel Medhurst AIT
Al Nawrocki CTA
Mark Shaw
Tracy Underwood CTA
William Watson FCA
Yueling Wei FCCA
Steve Williams
Stephen Yates FCA

Consultants

Paul Baker ACA
Chris Bliss FCA
Philip Prettjohn FCA

Registrable Trusts

There are no specific exclusions for bare trusts, that is, where the beneficiary has the right to income and capital if over 18 (or 16 in Scotland). There are some exclusions which apply to all trusts, described below. Subject to those exclusions, the trusts required to register can be summarised as follows; certain 'complex' estates are also required to register, and will then need to complete a trust and estate tax return.

- **Express Trusts**

- o All UK express trusts.

- o Some non-UK express trusts; that is,

- trusts which acquire interests in UK land (except certain short leases) on or after 6 October 2020 and,
- in cases where there is at least one UK resident trustee, trusts whose trustees, on or after 6 October 2020, enter a business relationship with a UK 'relevant person' that has an element of duration. UK relevant persons includes accountants, tax advisers and legal professionals, among others. The regulations do not define 'element of duration'; the HMRC manual says that a business relationship that goes beyond a one-off, short lived transaction is likely to have the required element of duration, and gives as examples an accountant preparing regular accounts for the trustees, or the purchase of land or property, which may be expected to take many months to complete.

- **Taxable Trusts**

- o All UK and non-UK trusts which have a liability to UK tax.

- o UK tax for this purpose means capital gains tax, income tax, inheritance tax, stamp duty land tax, stamp duty reserve tax, land and buildings transaction tax (in Scotland) and land transaction tax (in Wales).

- o If a trust has a tax liability which is covered by a relief, it will need to register to claim the relief through self-assessment.

- **Estates, if any of the following applies:**

- o the total income tax and capital gains tax due for the administration period is more than £10,000;

- o the value of the estate was more than £2.5 million at the date of death;

- o the value of the estate's assets sold by the personal representatives in any one tax year was more than £500,000.

Excluded Trusts

The exclusions cover the following types of trust, subject to certain conditions being met, provided there is no UK tax liability. If there is a liability, the trust will need to register. There are conditions specific to each of the categories listed.

- Estates and trusts created on death
- Insurance policies and compensation pay-outs
- Employee share scheme trusts
- Property co-ownership
- Charitable trusts
- UK registered pension schemes
- Trusts where a disabled person is the beneficiary
- Historic pilot trusts (created before 6 October 2020 and holding assets valued at £100 or less)
- Financial and capital markets
- Professional services and commercial arrangements
- Approved maintenance funds for historic buildings
- Public authorities
- Trusts imposed by legislation or court order
- Trusts registered on a European Economic Area register

When to Register

Non-taxable trusts will be given approximately 12 months to register from the time when the trust registration service is ready to accept registrations; that is, from a date to be announced.

Trusts that are liable to income tax or capital gains tax for the first time should register by 5 October following the tax year in which the income or gain arises.

Trusts that have previously been liable for income tax or capital gains tax should register by 31 January following the tax year in which the liability arises.

Registration is required by 31 January following the tax year in which any other tax liability, such as inheritance tax, arises.

If a trust is liable for more than one tax and both deadlines could apply, registration by the earlier date is required. A penalty may be charged for late registration.

Please contact your usual Rawlinson & Hunter contact or any of those listed below if you have any queries in relation to the matters raised in this briefing:

Chris Hawley, Partner

Email: christopher.hawley@rawlinson-hunter.com
Direct Dial: +44 (0) 20 7842 2138

Paul Huggins, Partner

Email: paul.huggins@rawlinson-hunter.com
Direct Dial: +44 (0) 20 7842 2197

Stephen Yates, Director

Email: stephen.yates@rawlinson-hunter.com
Direct Dial: +44 (0) 20 7842 2205

For this publication and all other recent Rawlinson & Hunter LLP updates, including technical support on COVID-19 related initiatives, please see the technical updates section on our website [here](#).

Rawlinson & Hunter is the trading name of Rawlinson & Hunter LLP, a limited liability partnership registered in England & Wales with registered number OC43050. The term partner, when used in relation to Rawlinson & Hunter LLP, refers to a member of the LLP. This communication contains general information only, and Rawlinson & Hunter LLP is not rendering professional advice or services by means of this communication.