

## Trust and Estate Registration: What must be registered and why?

If you are responsible for managing an estate or a trust, you will also be responsible for administering any tax that is payable by that estate or trust.

Not all estates and trusts will be liable to pay tax, but almost all express trusts and certain kinds of estates will need to be registered with HMRC, regardless of whether any tax is due.

Registering an estate or trust is a reasonably straightforward process that can be done online. However, it's not always obvious whether a trust or estate will need to be registered. This help guide will help you to understand everything you need to know about the process and what your responsibilities around this will be going forward.

### Trusts

#### *When do Trusts need to be registered?*

The rules about which trusts need to be registered have recently changed. Many types of trust that did not need to be registered in the past now do. If you are responsible for managing an express trust, it is highly likely that it will now need to be registered with HMRC, even if it isn't liable for tax.

#### **What is an express trust?**

An express trust is a trust that has been 'expressly' created. This means that someone has made an active decision to set it up and that it has not arisen automatically as the result of a court order or legislation.

#### *What are the exceptions?*

All express trusts in the UK will need to be registered unless they fall into certain categories. This includes both UK-based trusts and trusts that are not based in the UK but have acquired land or property in the UK. Non-UK trusts will also need to be registered if at least one of the trustees is resident in the UK or if the trust has entered into a business relationship in the UK.

Trusts that are exempt from registration include:

- Trusts created in a Will that only receive assets from the estate and are wound up within two years of the settler's death.
- Statutory trusts that are created as a result of following intestacy laws in the event of someone dying without a valid Will.
- Co-ownership trusts where the same people are both the trustees and the beneficiaries.
- Pilot trusts that hold less than £100 and were set up before 6 October 2020. (All pilot trusts established after this date are required to register even if they hold less than £100 of assets.)
- Trusts created to set up a bank account for minors or vulnerable persons.
- Certain express trusts that have been established to meet legislative conditions, for example:
  - A trust for a disabled person
  - A trust for bereaved minors
  - An 18-25 trust
  - Personal injury trusts

This is not an exhaustive list, and some other types of trust might also be excluded from the registration requirement. If you're not sure whether your trust falls into one of these categories, a solicitor who specialises in trusts will be able to advise you.

### *Other excluded trusts*

Trusts that have been imposed by the courts or created through legislation do not need to be registered. This includes trusts that are created when an estate is distributed via intestacy laws or trusts that are created by a court order, such as to hold compensation payments.

Not all financial products or arrangements that have 'trust' in the title are technically trusts. This includes Child Trust Funds and Venture Capital Trusts, which are not true trusts and therefore do not need to be registered.

### *Are there registration deadlines?*

If you are responsible for an express trust that needs to be registered, there are strict deadlines for doing so.

All express trusts that were created before 6th October 2020 that haven't previously been registered will need to do so by the 1st September 2022.

If your express trust was created after 6th October 2020 and is not liable for tax, it will need to be registered by the 1st September 2022 or within 90 days of its creation (whichever is later).

If your express trust is liable for tax, these deadlines will be slightly different. Taxable trusts that were created on or after 6th April 2021 will need to be registered by 1st September 2022 or within 90 days of the trust becoming liable for tax (whichever is later).

If your trust was created before 6th April 2021 and is liable for Income Tax or Capital Gains Tax for the first time, you should register your trust on or before 5th October in the tax year after the one in which it became liable. If your trust has been liable for these taxes before, or if it is liable for any other types of tax, this deadline will be the 31st January in the tax year after the one in which it became liable.

It's very important that you register your tax by the relevant deadline. If your trust is liable for taxes that have different deadlines, you should always register by whichever one is earliest. Failing to register your trust by the deadline could result in you having to pay a penalty. This could be up to £300 or 5% of the total tax liability (whichever is higher) if it is more than six months past the deadline.

### **For example**

If a trust incurs a Capital Gains Tax charge in September 2021 (which falls in the 2021/22 tax year), the trust would need to be registered by 5<sup>th</sup> October 2022.

If a trust incurs a Stamp Duty Tax payment in July 2022 (which falls in the 2022/23 tax year) it would need to be registered by 31<sup>st</sup> January 2024.

### *The registration process*

The registration process should be done online and is relatively self-explanatory. All trustees of a trust share responsibility for this process, but if a trust has more than one trustee, one of them must be nominated as the 'lead' trustee to act as the main point of contact for HMRC.

Trustees can also choose to appoint a professional such as a solicitor to manage the registration process on their behalf.

You will need the following information:

- The name and creation date of the trust, as well as what type of trust it is.
- The trust's UTR (unique tax reference), if it has one.
- Details of any UK land or property the trust holds.
- Details of any assets the trust holds and the full value.
- Personal details and contact details of all trustees.

- Personal details of the settlor (the person who set up the trust) including their date of death, if applicable.
- Details of all beneficiaries, including named benefits and classes of beneficiaries (such as future grandchildren).
- Details of any businesses or organisations that are involved in the trust.

The trustee who has taken on the responsibility of registering the trust will need to register for an Organisation Government Gateway user ID on behalf of the trust.

## *Keeping HMRC updated*

Once a trust has been registered, the lead trustee will be responsible for keeping HMRC up to date with any changes to the trust.

This includes updates to:

- The trust's correspondence address.
- Trustee details.
- Beneficiary details.

These updates will need to be given to HMRC by the 31st January in the tax year after the year in which the changes took place.

## **Estates**

### *When do estates need to be registered?*

Not all estates need to be registered with HMRC. However, some more complex estates will need to be registered.

This includes:

- Estates that have a value of more than £2.5 million at the time of death.
- Estates where the personal representatives sell more than £500,000 worth of estate assets in the tax year.
- Estates where the total Income Tax and Capital Gains Tax due during the administration period is more than £10,000.

In these situations, the personal representatives of an estate will be responsible for registering the estate with HMRC.

## *Are there registration deadlines?*

Estates need to be registered by the 5th October after the tax year in which the estate has become liable for tax.

If the estate isn't registered by the deadline, the personal representatives of the estate may find themselves liable to pay a penalty.

### **For example**

If the personal representatives of an estate sell property from that estate totalling more than £500,000 between April 2021 and March 2022 (which would fall within the 2021/22 tax year), the estate would need to be registered by the 5<sup>th</sup> October 2022.

## *The registration process*

The process to register an estate with HMRC is very similar to the process of registering a trust. This should be managed online by the personal representative of the estate or a professional working on their behalf. If there is more than one personal representative for the estate, a lead personal representative should be nominated as the main point of contact for HMRC.

You will need the following information:

- Your personal details and address.
- Your national insurance number.
- The personal details, address and national insurance number of the person who has died.
- The date of death.
- Information about the tax liability for the tax year you are registering for.

The personal representative who has taken on the responsibility of registering the estate will need to register for an Organisation Government Gateway user ID on behalf of the estate.

## *Keeping HMRC updated*

Once an estate has been registered, the lead personal representative will be responsible for keeping HMRC up to date with any changes.

This includes updates to the personal representative's contact details and closing the estate once it has been fully administered.

## How Roche Legal can help

Dealing with legal issues can be confusing and stressful. We understand this, and we're always on hand to untangle jargon and offer support.

If you need advice on any of the issues raised in this help guide, please don't hesitate to [get in touch](#). Roche Legal is an award-winning legal practice, offering practical and caring advice.

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