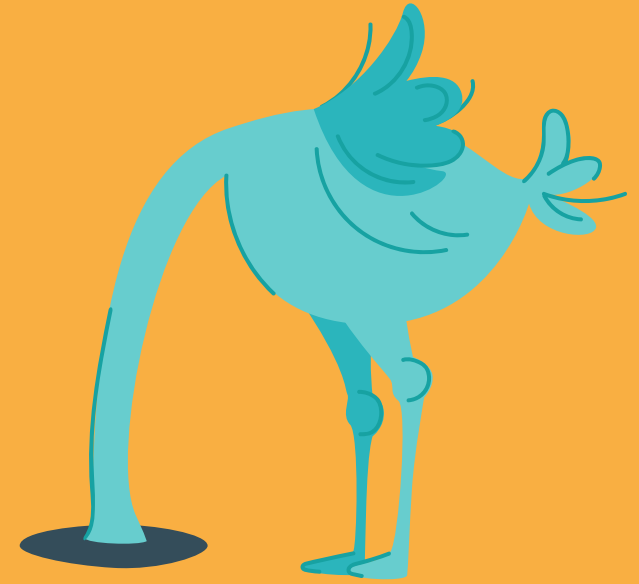


Trust rules are changing
– don't bury your head
in the sand!



Tax webinar
Jodie Green
Sara Pedrotti

17th May 2022

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“The net for the new Trust Registration Service is very wide and many people will not even be aware that as a Trustee they have an obligation to register. Trustees will rely on their advisers; be it their solicitors or tax advisers and at Wilson Partners we are ready to help you.”

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So what do we aim to get out of this webinar?

Agenda

- 01 Introduction and recap
- 02 Why has HMRC changed the reporting requirements?
- 03 When do we have to take action?
- 04 What happens if the trust isn't registered on time?
- 05 Who needs to register?
- 06 What if I've already registered?
- 07 How does the registration process work?
- 08 What if the trust has been closed?
- 09 How can Wilson Partners help?

Introduction and recap



Jodie Green
Tax Manager
Wilson Partners

I joined Wilson Partners nearly two years ago and love the variety my role comes with. My time is split between advising a wide range of clients on income and capital gains tax, trusts and succession planning to name a few, tax due diligence projects and research and development claims.



Sara Pedrotti
Tax Manager
Wilson Partners

My role at Wilson Partners is heading up our private client tax team, where my main responsibilities cover managing the personal tax compliance team and ensuring all clients' self assessment tax returns are filed by 31st Jan. I advise clients around remuneration strategy, capital gains tax, property portfolios and residence or domicile issues.

Why have HMRC changed the reporting requirements?

- Abuse of the system, tax evasion, money laundering
- Worldwide information sharing now includes trusts
- Risk avoidance for HMRC

When do we need to take action?



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When do we need to take action?

- Non-taxable trusts in existence on or after 6 October 2020 must be registered by 1 September 2022
- A trust which becomes registerable in the 90 days immediately prior to 1 September 2022 must register within 90 days of the date of creation
- Non-taxable trusts created after 1 September 2022 must be registered within 90 days
- Trust registered under the 2018 system are required to re-register under the new system; confirm details HMRC currently hold and add some more

What happens if the trust isn't registered on time?

- Fixed penalties and potential tax geared penalties for registrations over six months late
- No new legislation to register non-taxable trusts but the TRS sub-group have been considering the penalty structure
- Spoken with HMRC TRS team and if deadline missed they will issue a notice to file

Who needs to register?

- Trustees that are responsible for 'express trusts' must register, or appoint an agent to do it for them
- In broad terms an express trust is an intentionally created trust, which can be either in writing or verbally

Who's excluded?

- Trusts created in the course of setting up a bank account for minors or vulnerable persons
- Co-ownership trusts holding joint property where the trustees and the beneficiaries are the same persons
- Trusts holding policies that contain temporary disablement cover and trusts holding healthcare policies
- Pension scheme trusts
- Charitable trusts
- Trusts imposed by court order and some trusts having effect on death

What if I've previously registered under the 2018 system?

- If registration was carried out in the original 2018 system, new registration is required with additional details
- The same arduous process of setting up online access to update the register is required

Going forward:

- All changes must be reported within 90 days
- If the trust is taxable file an annual declaration to confirm the register is up to date

What if the trust has closed?

- If the trust was in place on or after 6 October 2020, HMRC stresses that trusts must still register
- The trust should be registered on the TRS and then immediately close the trust record

How does the registration process work?

- The trust must create a government gateway before beginning the registration process
- Agents who have set-up appropriate processes can take the reins to carry out the registration - a huge weight of the minds of the trustees

How can Wilson Partners help?

- Assist with the registration
- Ongoing maintenance of the trust
- Advise on the best way forward
- It's complicated, don't be stressed, we're here to help
- Please get in touch

Your questions



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What is the position with overseas trusts?

Generally speaking, the register focuses on UK trusts.

Overseas trusts are not caught, unless they have a UK tax liability (income tax, capital gains tax or inheritance tax).

As with all legislation, there are some exceptions, such as:

- A trust which has at least one UK trustee (but otherwise no other connection with the UK) may be required to register if it enters into a business relationship with a UK service provider (a UK 'relevant person') which is within the scope of the UK money laundering rules. This would include, for example, banks, investment managers, lawyers, accountants, tax advisers, trust and company service providers, and property agents. The business relationship requires an element of duration. As a general rule, a business relationship that goes beyond a one-off, short lived transaction is likely to have the requisite 'element of duration'.



- A non-UK resident trust will be required to register if it acquires real estate in the UK. This requirement only applies where the trustees are registered at the Land Registry as the legal owners of the property. If a non-UK trust already holds property and has not been required to register as a result of any current UK tax liabilities, it appears that there will be no requirement to register as a result of the introduction of the new rules. On the face of it, the registration requirement only comes into play if the trust acquired property on or after 6 October 2020.

Remember that acquiring real estate or entering into a business relationship in any EU member state is likely to result in a requirement to register on the trust register in that state. Therefore we suggest that attention is given to local legislation, using the appropriate advisors in that country/member state to ensure filing requirements are adhered to.

Some trusts may have to register in more than one jurisdiction, depending on their individual circumstances – a registration in one country will not mitigate filing requirements in another!

How did have you found the registration process?

- Try not to complete the registration with incomplete information. To claim the trust and link a government gateway account they will ask specific questions based on what they hold and so this could cause you problem later down the line.
- Be careful with postcodes – HMRC will expect the exact same information to be typed in so beware of ‘spaces’.
- Where there is overseas information to input onto the register HMRC’s system is not well equipped to deal with this (ie. overseas addresses / telephone), particularly when trying to claim the trust. Ultimately the answer is to use the Trust Registration Service (TRS) helpline who should be able to assist with the registration process (**0300 123 1072**).

Are we charging for this service?

The registration process is mandatory and so the simple answer is yes! It takes time and expertise in addition to some data processing – if the trustees have asked for help then it is because they do not feel equipped to do so themselves or do not have the time or inclination. Each fee should reflect the individual Trust position and whether it registered under the 2018 registration process.

Away from fees, we are seeing it as a chance to reconnect with our clients and further strengthen relationships with them.

How are we safely and securely storing the Trust data?

We are a paperless firm that securely store all client data on our network. In addition, and in the absence of a better HMRC system, we also maintain a central database of trusts, their static data and status, which tells a story of the trust and its unique history.

We have bespoke forms to assist us in the collation of data, which enables the client to provide the majority of required information in an easy way that is not overwhelming.

Maintaining these records, whilst adhering to GDPR can be a tricky balance, which is why we feel it is imperative to know our clients and their affairs.

Unfortunately, the HMRC system does not currently support a TRS client list, or a history of filings to view. We hope that this will change in time and plan to provide feedback to HMRC.

What are we responsible for?

Whatever we are engaged to do with a client, the letter of engagement will reflect this and accurately detail what is and is not part of our scope of work.

Post-webinar summary

We think we can all agree that the system is a work in progress, and we are all learning as we go. Let's keep talking and sharing our experiences, we are both keen to assist in any way we can.

Let's catch up.

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