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UK Trust Registration

Updated guidance has been issued around the expansion of the UK Trust Registration Service, explains Andrea Solana, Partner and Head of Advanced Planning at MASECO Private Wealth

Over the last 15 years there has been a global push towards increased transparency concerning the beneficial ownership of entities. Whilst the UK has failed to implement a register of the beneficial owners of UK companies, they have successfully instituted The UK Trust Register ("the Register"). First introduced in 2017, this allowed the UK to comply with the EU's Fourth Money Laundering Directive through the creation of a central database of beneficial owners of UK tax paying trusts and required all trusts (both UK and non-UK) liable to UK income tax, capital gains tax, inheritance tax, stamp duty land tax or stamp duty reserve tax to register with HMRC. The resulting database of information was generally only available to government authorities.

In October 2020, in response to the EU's Fifth Money Laundering Directive, further changes to the Register were announced. The amendments to the Register have widened the scope of trusts that are required to register, and also expand upon the information to be disclosed in relation to the beneficial owners of those registered trusts. It also makes the information contained within the register more widely available to include service providers within the scope of the UK's money laundering legislation where the trust enters into a business relationship as well as any third party who can show HMRC that they have a legitimate interest in the information.

Under the initial introduction of the Register, only trust structures owing UK taxes to HMRC were caught under the rules. However, as a result of the October 2020 changes, more trusts - including UK resident trusts without any UK tax liabilities - and bare trusts (where the beneficial owner and the legal owner are not the same) will be required to register. Generally, all UK trusts that are deliberately set up by a settlor (known as an 'express trust'), as opposed to a trust set up by court order or statute, now have a requirement to register unless the type of trust is specifically excluded from registering.

Some of the most notable exceptions to the registration requirement include will trusts, UK pension schemes which are held in trust, UK charitable trusts, trusts holding life insurance policies (which only pay out on death, illness or disability) and trusts that were set up for vulnerable individuals.

For trusts that are not UK resident, and previously fell outside of the registration requirements due to the trust not having any UK taxable income, the requirement to register will generally arise if the trust structure acquires UK real estate (land or property) after October 6, 2020. Specifically, in such circumstances, the trust will be required to register where the trustees are considered the legal owners with Land Registry or if the trust has at least one UK resident trustee and enters into a business relationship with a UK service provider (such as a solicitor, accountant or investment manager) that is anticipated to last for 12 months more. It should be noted that any existing UK business relationships in existence before this time will not have a requirement to register unless an alternative reason for registration presents itself. It is expected that any new business relationships, new UK tax obligations or purchase of UK property after this time would generally create a registration requirement.

In September 2021, HMRC announced that the Trust Registration Service (TRS) is now open for those trusts that fall under the expanded requirements to register. The original deadline for registration for any non-taxable trusts in existence on or after October 6, 2020 was March 10, 2022, but this has now been postponed to September 1, 2022. Additionally, the original regulations provided for a 30-day window to register new trusts that come into scope and to update the Register for any changes to trust details. This time allowance has now been increased to 90 days (see www.tax.org.uk/trust-registration-service-opens-for-non-taxable-trusts). Going forward, the registration deadline will ultimately depend on the potential tax liability of the trust and whether or not the trust has been liable for income tax or capital gains tax previously.

Penalties will be applied where trustees fail to comply with registration or information update requirements. It is important that individuals who are trustee or hold beneficial ownership of a UK resident or non-UK resident trust should review the upcoming changes, If this could apply to you, speak with your tax adviser, wealth manager, or solicitor, and determine whether they are impacted by the expanded registration requirement. ★

For any queries about trusts, you can contact HMRC via the contact details at: https://www.gov.uk/government/organisations/hm-revenue-customs/contact/trusts

Further guidance on registering a trust and the types of trusts that may be excluded can be found here: https://www.gov.uk/guidance/register-your-clients-trust and https://www.gov.uk/topic/personal-tax/trusts

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