



## Important changes for trustees coming later this year

The long-awaited Trust Registration Service ('TRS') is finally here, and with it comes new responsibilities for trustees of practically every kind of trust. If you are a trustee now, or if you expect to become one soon, then you will need to become familiar with the new online TRS or face potential fines. The deadline has been extended from March 2022 to September 2022 so if you are not aware of the new system then this will come as a relief. We understand the government's communications on the new system has been limited, so if this is news to you then this article will serve as a guide for what is to come.

### Why have these new rules come into play?

The TRS has been in place for a few years now to provide taxable trusts another method of registering, whilst remaining in line with EU regulation on anti-money laundering (AML). The specific UK legislation is the 'Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017', which aimed to improve the transparency of trusts and their beneficial owners, and to ensure the trustees are held accountable.

This was then expanded in September 2021 in scope to include the EU's 5th Money Laundering Directive (5MLD) which came into force two years before in 2019, with the aim of further tightening the EU's stance on AML. As a result, (almost) every type of trust now needs to register regardless of tax status.

## I am a trustee of a \_\_\_\_\_ trust, does this affect me?

Income-producing trusts have always needed to register via the 41G form, and as many trusts did not produce income this meant trustees historically did not need to register. A common structure for discretionary trusts involves holding an offshore bond within the trust for this very reason – withdrawals from offshore bonds (within the 5% rule) count as a return of capital, and not as income. This meant there was no requirement for the Trustees to register the trust unless they make withdrawals in excess of this limit. This has now changed. All trusts must be registered using the online system regardless of whether there are reportable income or capital gains, with a handful of exceptions:

### Exempt trusts which still do not need to register

- **Protection policies**, where the only benefit is a sum assured paid out on the death of a life assured (or terminal illness) and this is paid out within two years of the date of death.
- **Will trusts** are excluded from registration as an express trust for the first two years from the date of death. If the assets have not been paid out by this time, the trustees must register the trust. Trustees may still, however, must register as a taxable trust if there is any tax to pay.
- **Bereaved minors trusts and 18-25 trusts**
- **Statutory trusts** which have trust provisions prescribed by law, e.g. a trust arising on intestacy
- **Personal injury trusts** where the payment is made out to a trust, subject to certain conditions
- **Disabled trusts** where the beneficiary is a disabled person as described in the Finance Act 2005. The disabled persons must be the only beneficiaries of the trust.
- **Historic pilot trusts.** Trusts with a value of £100 or less which were already in existence before 6 October 2020 are excluded.

If you are a trustee of any other kind of trust, including discretionary trusts and bare trusts, you will need to register your trust as soon as possible, and certainly before September 2022.

## What are my new responsibilities?

The new regulations only require trustees to ensure the trust is registered, and to keep the TRS system updated with any changes as they occur. This means these responsibilities will be ongoing and are individual to each trust. Although you can designate a 'lead trustee', it is still the responsibility of all trustees to ensure this is carried out in a timely manner.

The trustees should create a single Government Gateway account for each individual trust and complete the online registration form, which can be done using the link below (if the Trust does not yet have a gateway account, you can still follow this link and click 'Create sign in details'): <https://www.tax.service.gov.uk/trusts-registration>

The information you can expect to be asked for will include:

- **Personal Information** on the persons involved in the Trust (i.e. settlor, trustees, and beneficiaries). This includes names, date of birth, NI number (where applicable), contact details, nationality, and country of residence of each of the above (and especially for the lead Trustee).
- **General details of the Trust itself**, including the class of beneficiaries if no names beneficiaries are stated.
- **Basic information on the investments held**, including shares, land and property.

Remember, each trust must be registered and updated separately. If you are a trustee of multiple trusts (even if they are from the same settlor, or for the same beneficiaries) a separate Government Gateway account must be created for each trust.

If you do not register before the new deadline of September 2022 then the fines are expected to be as follows:

- £100 if registration is late by up to three months;
- £200 if registration is late by between three and six months; and
- £300 (or 5% of the tax liability if higher) if registration is more than six months late.

## Can CAM help me to register my trust(s)?

We would be pleased to assist our clients in any way we can, however we are not able to directly assist you in setting up or completing the registration. That said, we are happy to help in the following ways:

- Answering any questions our clients have on the TRS and/or your new responsibilities
- Confirming whether or not our clients need to register their specific trust.
- Where we manage a trust's assets on your behalf, we can provide you with the relevant investment information needed to complete the registration.
- Subject to GDPR (data protection) compliance, we can provide personal details of the beneficiaries and other trustees related to your trust, where we have this on file.
- If this has prompted you to think about your trust or inheritance tax planning in any way then we would be pleased to review and discuss this with you.

If you decide you require assistance with registering your trust online then you may wish to speak with a solicitor or an accountant, as some of these professionals are now offering this as a service. This is often at a cost of £200 - £400 per trust. If you do not wish to carry this out yourself, or if you are unable to use the online system to register the trust(s) then you may wish to take one on as an 'agent' to register and/or update the trust(s) on your behalf.