



Trust Registration with the TRS

In October 2020, new rules were introduced creating a legal requirement for all UK trusts (subject to a few limited exceptions) and some non-UK trusts to be registered with HMRC via the Trust Registration Service ("TRS"). Previously, only trusts with certain UK tax liabilities or a business relationship with a UK service provider needed to be registered.

Do I need to register my trust?

Trustees are responsible for registration and should assume that a trust will need to be registered unless you establish otherwise. Most trusts now need to be registered and only a limited number of trusts are specifically excluded from the requirement to register.

The trust must be registered if it is one of the following:

A Trust that is liable for Tax in the UK

The trust must be registered if it is, or becomes, liable for any of the following taxes:

- Capital Gains Tax
- Income Tax
- Inheritance Tax
- Stamp Duty Land Tax
- Stamp Duty Reserve Tax
- Land and Buildings Transaction Tax (in Scotland)
- Land Transaction Tax (in Wales)

An Express UK Trust

An Express Trust is a trust deliberately set up by a settlor with a clear intention to set up the trust, with certainty as to what property is subject to the trust, and who the beneficiaries, or the class of beneficiaries are. Most Express Trusts will be evidenced in writing and executed as deeds, but other than for land settlements, it is not actually a requirement for a trust to be in writing.

This is the case for all Express Trusts unless specifically excluded, as outlined below.

Trusts that have to be registered include many common types of trust, such as Discretionary Trusts, Immediate Post-Death Interest Trusts and Bare Trusts, although there are a number of exclusions which may apply to some common Bare Trust arrangements, such as opening a bank account for a child, or a married couple owning distinct shares in a property (for example a 60/40 split in ownership).

Express Trusts that do not need to be registered include but are not limited to:

- trusts holding money or assets of a UK registered pension scheme;
- trusts holding life or retirement policies providing they only pay out on death, terminal or critical illness or permanent disablement, or to meet healthcare costs;
- trusts holding insurance policy benefits received after death (as long as the benefits are paid out from the trust within 2 years of the death);
- Pilot Trusts set up before 6th October 2020 holding no more than £100;
- co-ownership trusts set up to hold jointly owned assets for two or more people (provided the legal and beneficial owners are the same people), for example where a property is held in more than one name;
- Will Trusts (provided they only hold the estate assets for up to two years after the person's death, from which point they will require registration); and
- Charitable Trusts. Any trust which would usually be excepted will become registrable if it has a UK tax liability other than the charitable trusts.

A non-UK Express Trust

- when it acquires land or property in the UK;
- provided that it has at least one trustee resident in the UK and enters into a 'business relationship' within the UK; or
- if it is a trust that is not resident in the UK and it becomes liable for tax on UK source income or gains.

Whose responsibility is it to register the trust

It is the trustees' responsibility to register trusts that are fall under the obligation to register with the TRS. All trustees are equally legally responsible but they must nominate one "lead" trustee to be the main point of contact with HMRC (and the TRS).

The trustee(s) can delegate the responsibility to register the trust with TRS to an agent, e.g. an accountant or a solicitor. It is usually practical to have whoever deals with the tax affairs of the trust, to also manage the trust in regards to its obligation to register with the TRS.



For more information, including deadlines for registration and information you will need to provide when you register your trust with TRS, please read our blog [The Trust Registration Service – the countdown begins](#).

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This document has been drafted and provided by Kingsley Napley LLP.

This document should be used for information purposes only. This information is based on current legislation and should not be relied on as an exhaustive explanation of the law or the immigration issues involved without seeking legal advice.