

## Briefing Note

### New HMRC Requirements for Registering Trusts

---

HMRC has introduced new regulations requiring the registration of trusts. All trusts with a UK tax liability must be registered on the new Trusts Registration Service (TRS) online portal held by HMRC. The creation of this system ensures that the UK complies with the EU Fourth Money Laundering Directive which was introduced to increase transparency in regards to beneficial owners of trusts. The TRS replaces the previous registration form for trusts (the 41G) and requires all relevant trusts to be registered on the TRS, even if previously registered with HMRC.

#### Which trusts must be registered and by whom?

All trusts with a UK tax liability within any given tax year from 2016/2017 onwards must register. Trusts with a UK tax liability are those UK resident and non-UK resident trusts where a chargeable event has occurred or non-UK resident trusts where income is received from a UK source. A chargeable event is an event that gives rise to a tax liability in relation to any of the following taxes:

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

Registration can be completed by the trustees themselves, or by the agents in charge of the trust. The registration must be completed online. Trustees should ensure that they are familiar with these new regulations in order to avoid any sanctions.

#### What information will be held and in relation to whom?

The information required to be entered on to the TRS relates to all beneficial owners of each trust. The beneficial owners of a trust comprise the following classes of people:

- The settlor(s)
- The trustee(s)
- The beneficiaries (or classes of beneficiaries)
- Any individual who controls or makes decisions in relation to the trust
- The adviser or agent of the trust (if one exists)

Detailed and accurate information relating to the trust and the beneficial owners must be entered on the TRS. Where individual beneficiaries cannot be identified, it is possible to instead register the class of beneficiary that they belong to. It is important to note that this information must be kept up to date and as such the TRS should be updated to reflect any changes each year that the trust has a tax liability.

The information required comprise:

- Full name of trust and its date of creation
- Each individual's full name and UK address
- Each individual's date of birth
- Each individual's National Insurance number or Unique Tax Reference number
- Passport number (for non-UK residents)

Finally, details of the assets held by the trust upon its creation are also required. According to HMRC, the value of trust assets should be based on the market value at the date on which the asset was placed in the trust, this need not be a formal valuation but a "good estimate" of the market value. Such assets will be split into the following categories:

- Money
- Land and Property
- Shares
- Business interests
- Partnership interests
- Any other asset with a tangible market value

The register of trusts is not accessible to the public. However, the information will be available to UK law enforcement authorities upon request.

### Deadlines and Penalties

For newly created trusts (those created in the 2016/17 tax year) the deadline for registration is 5<sup>th</sup> January 2018. For all existing trusts, the deadline is 31<sup>st</sup> January 2018. In future, all new trusts with a chargeable event will be required to be registered by 31<sup>st</sup> January following the tax year in which the chargeable event occurred.

If trustees fail to meet registration deadlines or fail to provide relevant up-to-date information for the beneficial owners of the trust, HMRC will likely impose civil penalties. HMRC plans to publish their penalty framework in the near future.

### What can Turcan Connell do to help?

We are aware that the above deadlines are fast approaching and so we aim to help as much as possible by answering any queries our clients may have in relation to the TRS. In addition, we can complete the trust registration process on behalf of our clients in our capacity as trustees or legal and tax advisers. For further information or if you have a specific query in relation to the TRS, please do not hesitate to get in touch with your usual Turcan Connell adviser.

This briefing note is a short summary of HMRC's new requirements for registering trusts. No responsibility can be accepted for any action taken in reliance on this note and specialist advice should be taken in every case. Turcan Connell would be happy to provide such advice.

©Turcan Connell December 2017

EDINBURGH Princes Exchange, 1 Earl Grey Street, Edinburgh, EH3 9EE T 0131 228 8111 F 0131 228 8118 DX 723300 Edinburgh 43 LP1 Edinburgh 14  
GLASGOW Sutherland House, 149 St Vincent Street, Glasgow, G2 5NW T 0141 441 2111  
LONDON 12 Stanhope Gate, London, W1K 1AW T 020 7491 8811