

Trust Registration Service –March 5th Looming!

(Lecture P1065 – 14.04 minutes)

Trusts liable to pay UK income tax or CGT must be registered on HMRC's new trust register, which has been introduced to help comply with the new Anti-Money Laundering regulations introduced in 2017. This new service replaces the 41G (Trust) paper form, which was withdrawn at the end of April 2017.

Trustees must provide details of the trust's "beneficial owners", being the settlors, trustees and beneficiaries of the trust, together with anyone else with control over the trust assets, such as a trust protector.

For trusts already within self-assessment (SA), no penalties will be charged where registrations are completed no later than **5 March 2018**.

TRS is now the only mechanism for a trust to acquire a UTR, so trusts new to self-assessment will normally be expected to register with the Trust Registration Service (TRS) by 5 October following the end of the tax year. For 2016-17 only, this was extended to 5 January 2018, since agent access to the service was delayed.

The regulations provide for both civil and criminal sanctions for late registration or failure to register with the TRS. HMRC have not yet indicated how they will be applied.

The information needed about each relevant person or organisation includes:

- name
- date of birth
- NINO if they're UK resident, unless a minor
- an address and passport or ID number for non-UK residents, if there is no NINO
- Unique Tax Reference (UTR) (if an organisation).

If all reasonable steps to obtain the information are unsuccessful (e.g. if a beneficiary's whereabouts is unknown, or a settlor is deceased), the HMRC guidance explains how trustees should enter identity information in the system. For example, if the address is not known, use either the trustees' or agent's address, but replace the post code with NK1 1NK. This will indicate to HMRC that the address is either not known or no longer exists.

Where a beneficiary is un-named, being only part of a class of persons (e.g. "my grandchildren"), you will only need to disclose the identity of the beneficiary when they receive a financial or non-financial benefit from the trust. Where there are contingent beneficiaries (e.g. arising on the death of a named beneficiary), they can be listed as a class of beneficiaries, until the contingent event occurs, when the individual potentially stands to benefit and must be named.

The same registration rules apply for personal representatives of 'complex estates', including estates that have already registered with HMRC and are still being administered.

The majority of agents have now set up an ASA (Agent Services Account), but there have been problems for those with no previous 'digital footprint' with HMRC. If an agent tried to register before 8 January 2018 and was unsuccessful, they should try again, as most of the glitches in the process have now been addressed.

If you have tried after 8 January 2018, have you obtained an agent code from HMRC and, if so, have you already acted on behalf of a client for SA or PAYE? If so, you should now be able to register using your existing UTR and agent code.

In other circumstances, you currently cannot access agent services. You need to:

- apply for an agent code in writing, then
- be appointed for an existing SA or PAYE client.

As with most HMRC IT projects, the introduction of the TRS has undoubtedly had some hiccups, but once fully up and running it should provide an easy mechanism for trustees to provide updated information to HMRC and also help in the goal of achieving greater transparency in trusts.

Contributed by Kevin Read