

Trust Registration Service

The scope of offshore trusts that need to register with the trust registration service (TRS) has been extended.

Does this apply to your trust?

Previously, offshore trusts were only required to register with HMRC using the TRS if they had income from a UK source or UK assets on which they become liable to pay UK income tax, capital gains tax, inheritance tax, stamp duty land tax, land and buildings transaction tax or stamp duty reserve tax.

Non-UK resident trusts which hold UK assets indirectly through a non-UK registered company are not usually required to register.

As a result of the 5th Anti-Money Laundering Directive, the scope of the TRS has been extended, and the following types of trusts will also need to register with HMRC:

- all UK resident express trusts, as opposed to only those with a UK tax liability;
- non-UK resident express trusts that acquired UK land or property either on or after 6 October 2020; and
- non-UK resident express trusts that entered into a new business relationship with an obliged entity after 6 October 2020.



Offshore trusts that do not have to be registered

Certain express offshore trusts set up for very limited purposes are excluded from registration, unless they are liable to pay tax.

These offshore trusts include:

- Trusts used to hold a life insurance policy, income protection policy or retirement benefits if the policy only pays out on death, terminal illness or permanent disablement, or to meet the healthcare costs of the person assured, and does not have a surrender value.
- Trusts holding insurance policy benefits, providing the benefits are paid out within two years of the death of the person assured.
- 'Pilot' trusts which were set up before 6 October 2020 for future use, and which hold no more than £100.
- Co-ownership trusts set up to hold shares of property or other assets which are jointly owned by two or more people for themselves as 'tenants in common'.
- Will trusts which come into effect on a person's death, providing they only hold the estate assets for up to two years after the person's death.
- Trusts for bereaved children under 18, or adults aged 18-25 set up under the will (or intestacy) of a deceased parent or the Criminal Injuries Compensation Scheme.
- 'Financial' or 'commercial' trusts created in the course of professional services or business transactions for holding client money or other assets.
- Trusts which are not set up deliberately by a settlor but are imposed by Courts or created by legislation, do not have to register unless they are liable to tax.
- Some financial products and arrangements with 'Trust' in their description, for example, the Child Trust Fund or Venture Capital Trusts, do not need to register.

What is a 'business relationship'?

Current HMRC guidance defines a business relationship as a 'business, professional or commercial relationship that arises out of the professional activities of the obliged entity and that is expected, at the time the relationship is established, to endure for a period of time – in the Government's view, at least 12 months'.

The Government's response to the technical consultation in November 2020 confirmed that the Government has opted to take a measured approach, and will only require non-UK trusts to register on entering a business relationship with an obliged entity if the trust has at least one UK resident trustee. This means that most non-UK trusts will not be required to register if their only link to the UK is through a business relationship with a UK based adviser.



What is an 'obliged entity'?

An obliged entity includes a financial or credit institution, accountant, tax advisor, legal professional, estate agent, art dealer and other person dealing in certain goods or providing particular services.

Who will have access to the UK Trust Register?

Access to the register is limited to law enforcement authorities and:

- obliged entities (advisors, trustees and financial intermediaries) for the purposes of confirming their customer due diligence;
- any person that can demonstrate a 'legitimate interest'; and
- any person that files a written request in relation to a trust, where that trust owns or holds a controlling interest in a non-EEA company or other legal entity.

What does this mean for trustees?

Trustees who are required to register one or more trusts will need to ensure that they have the required information for every beneficial owner, and that it is accurate and up to date.

Beneficial owners are:

- the settlor(s);
- the trustees;
- named beneficiaries (including those referred to as a potential beneficiary in a letter of wishes or similar document relating to the trust from the settlor);
- classes of unnamed beneficiaries;
- unnamed beneficiaries who have received distributions from the trust; and
- any individual who has control over the trust.

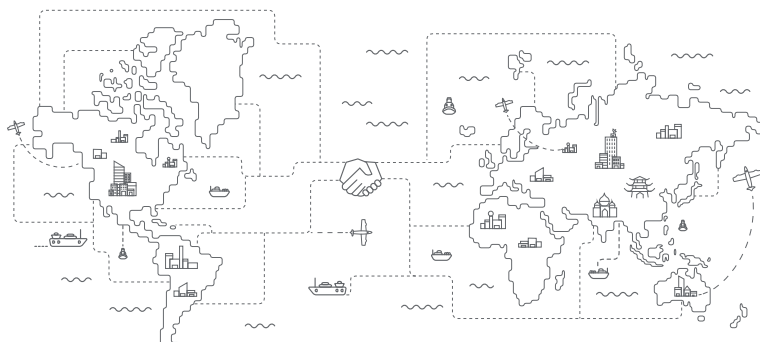
An individual will be treated as having control if (alone or with others) they have:

- the power to add or remove beneficiaries;
- appoint or remove trustees or give another individual control over the trust;
- the power over trust property;
- the power to direct, withhold consent to or veto trust distributions; or
- the power to make amendments to or terminate the trust.

What information is required to be kept?

For each beneficial owner of the trust, the trustees are required to maintain accurate, up to date details of the individual's:

- full name and date of birth;
- national insurance number or unique taxpayer reference (UTR) or, if these have not been issued, their usual residential address and, if this is outside the UK, their passport or identity card number or equivalent and details of the issuing country and expiry date; and
- nature of relationship to the trust (eg settlor, trustee, beneficiary).



For any tax year in which the trustees have a liability to UK tax (or for which the trustees have received a notice to complete a tax return), they must provide HMRC with:

- the name of the trust and the date that it was created;
- a statement of accounts for the trust, including a description of the trust assets and the value of each category of assets (if the trust holds land or property, its address must also be provided);
- the country in which the trust is tax resident, where it is administered and a contact address for the trustees;
- the name of any advisers being paid to provide legal, financial or tax advice to the trustees in relation to the trust; and
- the information they are required to keep in respect of the beneficial owners (as detailed above).

This information must be submitted online.

When do you need to do this?

All non-taxable trusts, that are in existence on or after 6 October 2020, other than those specifically exempt, need to register by 1 September 2022. Non-taxable trusts created after 1 September 2022 or that no longer qualify for an exemption must register within 90 days. For trusts that are already registered, the register will need to be updated so that it is accurate and up to date on the deadline date or within 90 days of the change if this is later.

What are the penalties for failing to comply?

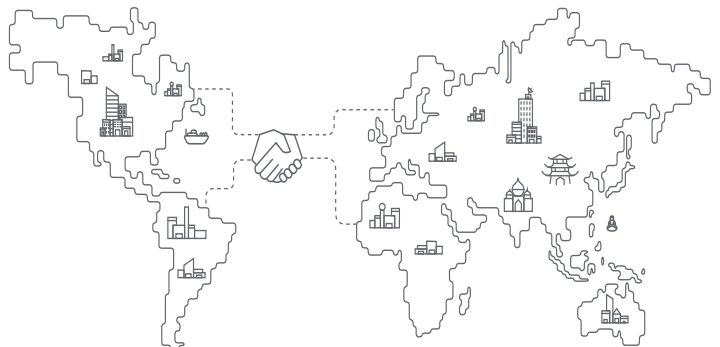
If trustees fail to maintain an accurate and up-to-date record of beneficial owners, or provide HMRC with the required information, HMRC currently imposes a penalty of £100 for each missed deadline, with additional penalties levied for continued delays. Additionally, HMRC could pursue criminal proceedings where a money-laundering offence has occurred. It is therefore important that these obligations are met.

How can RSM help?

RSM can help you with all aspects of a trust's beneficial ownership registration, including but not limited to:

- preparing and submitting the initial registration to HMRC on behalf of the trustees;
- updating and maintaining trust registrations; and
- providing information and assistance to help trustees comply with their obligations.

For more information in respect of the reporting of beneficial owners and trust assets and the services we can offer, please speak to [Stephanie Court](#) or your usual RSM adviser.



rsmuk.com

The UK group of companies and LLPs trading as RSM is a member of the RSM network. RSM is the trading name used by the members of the RSM network. Each member of the RSM network is an independent accounting and consulting firm each of which practises in its own right. The RSM network is not itself a separate legal entity of any description in any jurisdiction. The RSM network is administered by RSM International Limited, a company registered in England and Wales (company number 4040598) whose registered office is at 50 Cannon Street, London EC4N 6JJ. The brand and trademark RSM and other intellectual property rights used by members of the network are owned by RSM International Association, an association governed by article 60 et seq of the Civil Code of Switzerland whose seat is in Zug.

RSM Corporate Finance LLP, RSM Restructuring Advisory LLP, RSM Risk Assurance Services LLP, RSM Tax and Advisory Services LLP, RSM UK Audit LLP, RSM UK Consulting LLP, RSM Northern Ireland (UK) Limited and RSM UK Tax and Accounting Limited are not authorised under the Financial Services and Markets Act 2000 but we are able in certain circumstances to offer a limited range of investment services because we are licensed by the Institute of Chartered Accountants in England and Wales. We can provide these investment services if they are an incidental part of the professional services we have been engaged to provide. RSM Legal LLP is authorised and regulated by the Solicitors Regulation Authority, reference number 626317, to undertake reserved and non-reserved legal activities. It is not authorised under the Financial Services and Markets Act 2000 but is able in certain circumstances to offer a limited range of investment services because it is authorised and regulated by the Solicitors Regulation Authority and may provide investment services if they are an incidental part of the professional services that it has been engaged to provide. RSM & Co (UK) Limited is authorised and regulated by the Financial Conduct Authority to conduct a range of investment business activities. Whilst every effort has been made to ensure accuracy, information contained in this communication may not be comprehensive and recipients should not act upon it without seeking professional advice.