

Trust Registration Service Update

Personal tax

30 September 2021

Following the opening of the Trust Registration Service to accept registrations of non-taxable trusts on 1 September 2021, we are expecting further updates to the relevant legislation shortly to extend deadlines and some of the exclusions.

On 1 September 2021, HMRC confirmed that the Trust Registration Service (TRS) is now able to accept the registration of non-taxable, express UK trusts. This represents a significant extension to the TRS regime and means that all UK non-taxable trusts (except those covered by the exclusions in Schedule 3A of The Money Laundering and Terrorist Financing (Amendment) (EU Exit) Regulations 2020 (see tinyurl.com/da4zvyuv)) must now be registered. Trustees and their agents have a year to comply before penalties are imposed.

The extension of the TRS from taxable to non-taxable trusts follows the UK's adoption of the EU's 5th Money Laundering Directive (5MLD). The changes relating to the TRS were implemented by the regulations cited above on 6 October 2020, but it has taken some time to upgrade the TRS to accommodate the new requirements. Accordingly, HMRC will shortly be making some further changes to the regulations to allow practitioners more time to comply with the new rules - and also to change all the previously proposed 30-day deadlines to a more manageable 90 days. At the time of writing, we have not seen the proposed regulations but we understand the changes outlined below are to be expected.

Non-taxable trusts

Firstly, the registration deadline for non-taxable trusts will be extended from the current deadline of 10 March 2022 to 1 September 2022 to reflect the delay in upgrading the TRS.

HMRC's published correspondence explains that this deadline will apply to trusts in existence on 6 October 2020 and any created before 1 September 2022 and that

new, non-taxable trusts created after 1 September 2022 will need to register within 90 days of creation. We have confirmed with HMRC that, so that trusts created in the run up to the change in deadline are not disadvantaged, the 90-day rule will actually apply to registrable trusts created from 2 June 2022.

In the original regulations, after March 2022 trustees were required to register a new, non-taxable trust within 30 days of creation. Thankfully, HMRC have taken on board concerns raised by several professional bodies including the ATT and CIOT and we are pleased to see the more manageable timescale of 90 days is being adopted from the new September deadline.

HMRC's current position (as stated on the Agent Forum) is that trusts which were in existence on 6 October 2020 when the rules took effect, but which closed before the TRS was opened to non-taxable trusts on 1 September 2021, still need to be added to the register - and then immediately reported as ceased. We have asked HMRC if they will reconsider this position as this will be no doubt be an unwelcome requirement where a trust was wound up before it was practically possible to register it.

HMRC have also informed us that that the proposed regulations will expand the Schedule 3A list of non-taxable trusts which are excluded from the registration requirements as follows:

- Healthcare policies: all healthcare policies which are held in trust, including those that are not part of a wider life policy, will be excluded from registration.
- Child bank accounts: any trusts required in order to open a bank account for a child will be excluded from registration.

Judging from member queries, the later exclusion will be particularly welcome.

Taxable trusts

In line with the requirements for non-taxable trusts, other deadlines will similarly be moved to 1 September 2022. Existing taxable trusts have been able to update their registrations in line with 5MLD requirements to add in details, including the residency and nationality of their beneficial owners, since May 2021, but the deadline to complete this will also be extended to 1 September 2022.

Similarly, from 2 June 2022 the deadlines for registering new taxable trusts will be extended from 30 days to 90 days.

Third party data requests

The date from which legitimate interest and third country access requests may be made will likewise be moved from March 2022 to 1 September 2022.

HMRC manual

HMRC is developing a manual (see tinyurl.com/TRSmanual) to provide support and guidance for those affected by these new rules. We are meeting HMRC regularly to discuss the various iterations as they occur and any feedback from members would be welcome to the usual ATT/CIOT addresses or direct to us below.