

Trust registration – a new regime

Summary

Two new, annual reporting requirements for trustees are coming into force under the Trust Registration Service ('TRS') and the 5th Money Laundering Directive.

From 6 April 2020 trustees may be required to report to HMRC any changes that have occurred to the trust in the year.

If the information given at the initial registration of the trust has changed AND the trust is liable to tax in 2019/20 or was liable in the previous three tax years,

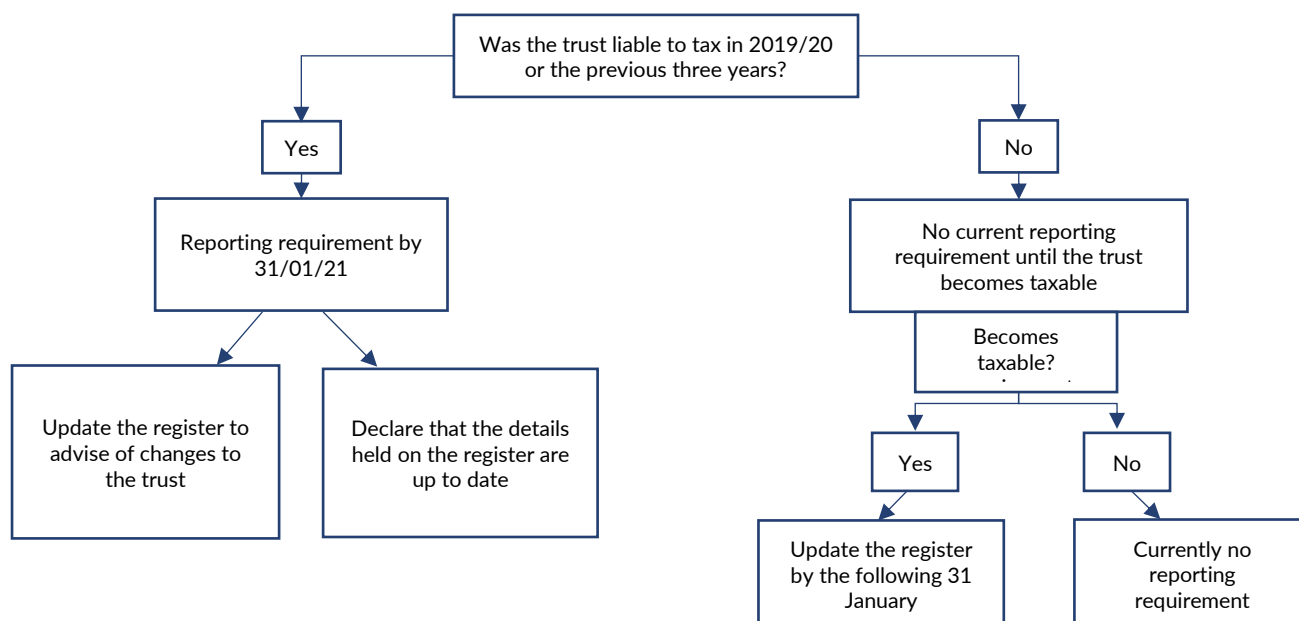
trustees now have a duty to report any changes by 31 January 2021.

If there have been no changes and the trust was liable to tax in any of the tax years above, trustees are still required to declare the details that are held are up to date, by the same deadline.

A further, more onerous reporting regime comes into force in 2021/22 which is explained in detail later.

Do you need to report the changes in your Trust's details?

The following flowchart will help trustees determine whether they currently have a duty to report to HMRC:



What changes in the trust's details need to be reported?

Trustees are required to report changes in the details of the Trust which include changes to the:

- lead trustee,
- other trustees,
- beneficiaries,
- settlor,
- protectors or other individuals (if appropriate),
- any other change, such as closure of the trust.

The online service allows changes to be reported at any time, in respect of changes to the trust's correspondence address, changes to the lead trustee and to add or remove the details of people who are associated with the trust.

For example, it is possible to notify the removal a beneficiary if they have been excluded from benefiting.

What's the deadline for reporting?

For periods up to 22 February 2022

The notification of any changes, or declarations that the trust details are up to date, need to be made by 31 January following the relevant tax year.

This means that if the trust has a tax liability in the year ended 5 April 2020, the trustees will be required to update the trust's details or make a declaration that the details held are correct by 31 January 2021.

Also, if the trust was liable to tax in any of the years, 2016/17, 2017/18 or 2018/19 it will be necessary to make a declaration by 31 January 2021.

Currently, where a trust has no tax liability in a particular year, the trustees have no requirement to update the register for that year but must do so by 31 January following the next tax year that a liability arises.

From 22 February 2022 onwards

Very confusingly, working alongside this is a new directive (5th Money Laundering Directive). This sets out that further, more detailed, information must be provided to HMRC by 10 March 2022 on taxable trusts in existence at 22 February 2022. This is in addition to the information already provided under the regime above.

Under this more onerous directive any new lifetime trusts created after 22 February 2022, whether taxable or not, must notify the TRS within **30 days** of creation!

They must also notify HMRC of any changes to the trust within **30 days**.

This is a very different timescale to the current Self-Assessment style end of year reporting.

How do you update the trust's details?

Trustees will be able to update the trust's details using HMRC's online services, once the trust has been registered with HMRC.

Forbes Dawson are able to undertake this reporting on the trustees' behalf. Unfortunately, even if we are already appointed as tax agents of the trust, the trustees must give us express consent to undertake this reporting.

It falls outside the usual Self-Assessment regime and trustees must appoint us to act through HMRC's government gateway online system. As this is a time-consuming exercise, time is of the essence, with the first deadline fast approaching.

Which trusts are required to be registered?

Currently only taxable trusts need to register and update their records. This all changes following the introduction of the 5th Money Laundering Directive

As a result, the scope of the Trust Registration Service (TRS) will widen and only trusts which are specifically excluded will not be required to register. There is a very small list of excluded trusts. Unfortunately, even some bare trusts and all offshore trusts holding UK property are now required to register.

Unfortunately, the introduction of two new regimes, more or less at the same time, makes it very confusing. We are here to help steer you through this minefield.

If you require more information regarding your trust's reporting requirements, please contact your usual Forbes Dawson contact for more details.

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