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EXTENSION TO THE TRUST REGISTRATION SERVICE ('TRS')

You may recall that in late 2017, trustees were advised of the obligations under the 4th Money Laundering Directive to compile and maintain records of the trust assets, the settlor(s) and its beneficiaries for relevant trusts and where necessary, to report the information to HM Revenue & Customs ('HMRC'), to be kept on a new Trusts Register (the TRS).

Previously, only taxable trusts were required to register on HMRC's TRS. However, from 6 October 2020, in accordance with the EU's 5th Money Laundering Directive, which has now been incorporated into UK law, the scope has been extended to include all UK express trusts and some non-UK express trusts, bar a few exclusions.

This means that all UK express trusts not previously registered will now need to register on HMRC's TRS by 1 September 2022, unless specifically excluded from the registration requirements.

The exclusions include:

- (i) Trusts used to hold life or retirement policies providing that the policy only pays out on death, terminal or critical illness or permanent disablement, or to meet the healthcare costs of the person assured;
- (ii) Pilot trusts which were set up before 6 October 2020 and which hold assets with a value of no more than £100. (Such trusts set up after 6 October 2020 will need to register on the TRS);
- (iii) 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;
- (iv) Will trusts which are created by a person's will and come into effect on their death providing they only hold the estate assets for up to two years after the person's death; and
- (v) Trusts created because of opening a bank account for a minor child or person lacking mental capacity. This exclusion only applies to trusts created when opening a cash deposit account. Investments held on trust for the benefit of a minor child will not be excluded from registration.

Non-UK resident trusts will also be required to register where on or after 6 October 2020:

- (a) they acquire UK land/property; or
- (b) they have at least one UK resident trustee and enter a new business relationship with a UK relevant person (unless they meet one of the exclusion criteria).

Amendments to a trust will also need to be reported online via the TRS within 90 days of a change, e.g. where new trustees are appointed. Non-taxable express trusts created on or after 1 September 2022 will need to register on the TRS within 90 days of creation.

All trusts falling within the remit of the new legislation that were in existence on 6 October 2020 will need to be registered even if they have now been terminated. Penalties may be charged where there is non-compliance.

Trustees can either register themselves or they can appoint an agent to do this on their behalf.

We would be happy to assist with establishing whether you have any trusts that meet the requirements to register and with any reporting obligations.

Should you require any further information on this, please let us know.