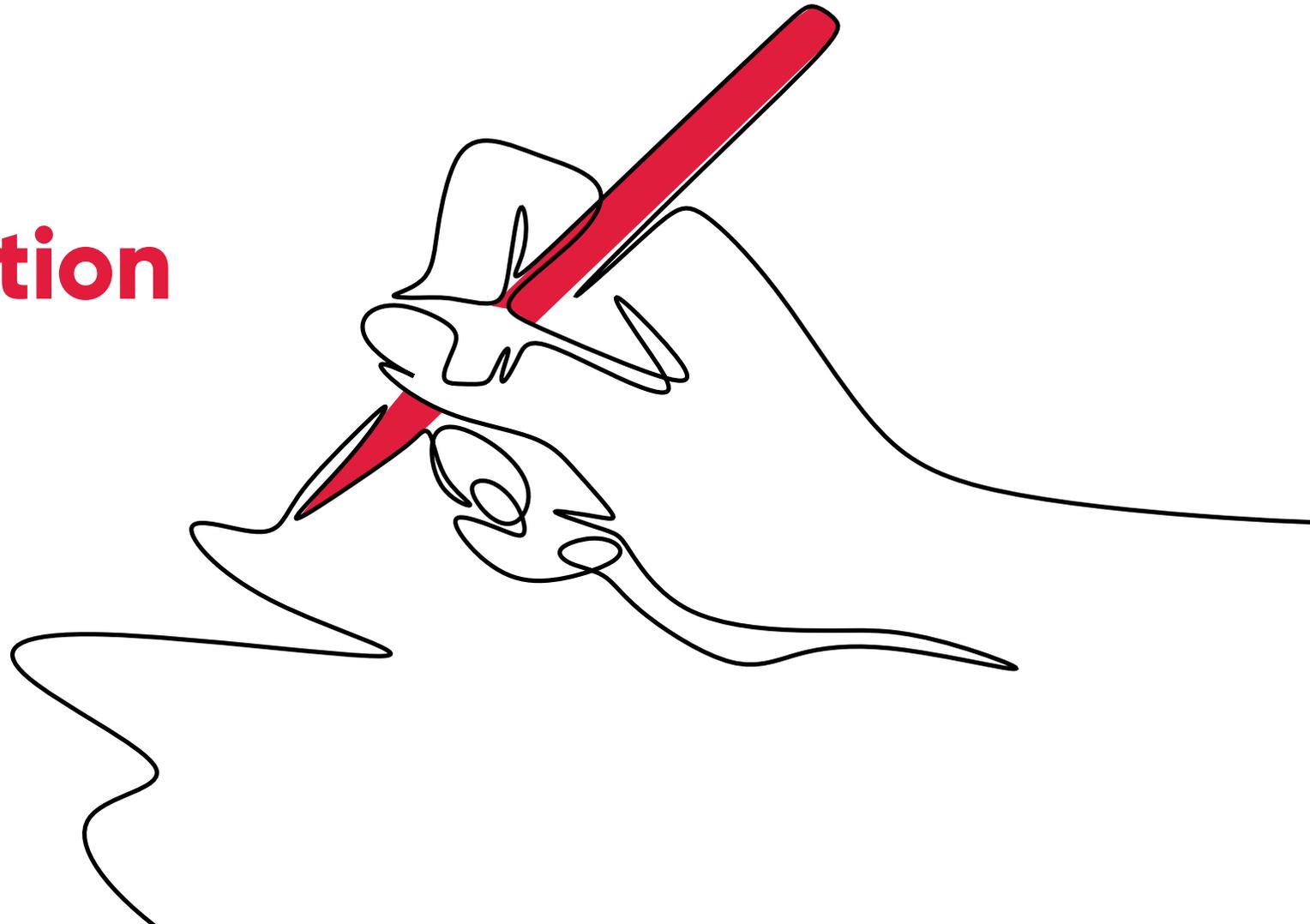




Trust Registration



HMRC is compiling a register of Trusts

While this register is not publicly available, information contained on the register is accessible to those who can demonstrate a legitimate interest.

Historically any express Trust (that is a Trust deliberately set up by a settlor) that had a UK tax charge, was required to be registered on the Trust Registration Service (TRS). This was under the 4th Money Laundering Directive (4MLD).

Under the 5th Money Laundering Directive (5MLD), all Trusts are now required to be registered unless they are exempt.

Exempt Trusts

1. Will Trusts which do not hold assets for more than 2 years after the date of death.
2. Trusts for bereaved minors.
3. 18-25 Trusts.
4. Trusts set up for a disabled person.
5. Charitable Trusts.
6. Registered Pension Schemes.
7. Pilot Trusts holding no more than £100 set up prior to 6 April 2020.
8. Junior ISAs or Trusts used to open a bank account for a minor child.
9. Trusts created in certain Share Option Plans, e.g., SIPs.
10. A Trust used to hold life insurance policies that can only pay out on death, terminal illness, or permanent disablement (if there was a surrender value which can only be accessed on the full surrender of the policy, this will be excluded).
11. Any Trusts imposed or required by legislation are excluded from the requirements to register. This would include Trusts created under the rules of intestacy and co-ownership property Trusts.

The link to the HMRC manual which includes all exempt Trusts, can be [found here](#)



What Is Required?

Those Trusts which were registered under 4MLD will need to maintain their registration and are now required to update their records held on the TRS with some additional information which is required under 5MLD.

Any Trust which has a tax charge in the UK is required to make an annual declaration that the Trust register is up to date.

Under 5MLD, a lot more Trusts will need to be registered.

The deadline for registration is 1 September 2022

If any of the Trust details change, e.g., Trustees change their contact details, etc., then the TRS record needs to be updated within 90 days of the change.

Property Trusts

Trusts of jointly held property where the trustees and beneficiaries are the same people are excluded from registration under the excluded co-ownership Trust exemption.

If a property is held by a husband and wife as tenants in common, a Trust is created, however since they have the same legal and beneficial owners, there is no need to register the Trust on the Registration Service.

On the other hand, if a property is held by 2 parents on Trusts for their children, this would need to be registered because the legal owners (the parents) differ from the beneficial owners (the children).

It is only possible for a maximum of 4 people to be listed as the legal owners of land and property at the Land Registry. Where land is held by more than 4 people, it is said to be held in trust for the benefit of all people who have a beneficial entitlement. As the trustees and the beneficiaries of this Trust are not the same, this is not an excluded co-ownership Trust. However, Trusts created for this purpose are excluded from registration as Trust imposed by legislation, therefore they are not required to register on the TRS.

Overseas Trusts

Any non-UK Trust which acquires land and property in the UK must register regardless of whether it has any UK trustees or UK tax charge.

A non-UK non-taxable Trust will need to be added to the register if they have a UK trustee and enter into a business relationship with a UK advisor.

Any non-UK Trust with a UK tax charge would have been required to register under 4MLD and will be required to update their registration with some further details under 5MLD.

The Most Common New Registrations

Bare Trusts – there is no specific exclusion from registration of a Bare Trust.

In general, if a Bare Trust is an express Trust, i.e., it was set up deliberately, this will need to be registered on the TRS. This can include situations such as

- A grandparent setting up an investment portfolio in the name of their grandchild – this will now need to be registered.
- Someone acting as a nominee shareholder for another – this will now need to be registered.

Basically any situation where the legal owner and the beneficial owner are different people should be considered.

Note that any Bare Trusts created under law or legislation may be exempt.

Interest in Possession Trusts where the income is mandated to beneficiaries may have escaped the need to register under 4MLD, they will now need to register under 5MLD.

Life interest trusts created under a will, usual over the family home, whereby the surviving spouse has a life interest in the property with children being the remaindermen, this will usually require registration.

Any situations where the legal owners of land and property as per the Land Registry are different from the people who beneficially own the land should be reviewed.

Next Steps

If you think you may be party to any trust which requires registration please speak to your usual contact as soon as possible to discuss if registration is required.

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