



The trusted solution in wealth structuring

## The UK Trust Register

### Nerine Trust Company Limited

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#### What is it?

The trust register has been introduced to replace the current paper 41G (Trust) form and provides an online route for trusts to comply with their registration obligations and to obtain their self-assessment and unique taxpayer reference.

#### Who needs to use the Trust Registration Service (TRS)?

A non-UK express trust (a trust which is established by a Settlor who transfers property to a trustee) which receives UK sourced income or has UK assets on which the trustees have incurred a liability, in a given tax year, to pay any of the UK taxes listed below which need to be registered on the TRS.

- Income tax
- Capital gains tax (CGT)
- Inheritance tax (IHT)
- Stamp duty land tax (SDLT)
- Stamp duty reserve tax (SDRT)
- Land and building transaction tax (Scotland)

Collectively "relevant UK taxes".

Trust-Company-Property structures should register when a 10 year charge is payable.

The trustee is not required to file if:-

- there are no UK situs assets/income but there is a UK resident settlor who pays tax on income and gains.
- the settlor or beneficiary of a trust has incurred a liability to pay any of the relevant UK taxes in a tax year but the trustees are not liable to pay any of the relevant UK taxes.
- if after claiming a tax relief the trustee does not incur a liability in a given year then there is no requirement to register.
- the trust has no UK source income or UK based assets or, if the trust has no UK source income or UK based assets but for some other reason the trustees have incurred a liability to pay of the relevant UK taxes.
- in tax years where no liability has arisen, the trustee is not required to register or update in that year.
- If the income is not received by the trustees because it is paid directly to the beneficiary. This relates to life interest trust/income in possession trusts.

Once the registration process has commenced there is Save for Later facility but this only lasts 28 days before the data is removed from the system.

### **Registration Deadlines**

Trusts already registered for self-assessment in respect of income tax or CGT must complete their registration by no later than 31 January after the end of that tax year i.e. the first registration deadline is 31 January 2018.

Trusts not registered for self-assessment and which have incurred an income tax or CGT liability for the first time in a given tax year must register by no later than 5 October after the end of the tax year. The first registration deadline was 5th October 2017 (but see the "Missing Deadline" section below).

Trusts not registered which have incurred an IHT, SDLT, SDRT or a land and buildings transaction tax (Scotland) liability in the tax year, must register by no later than 31 January after the end of that tax year.

If registration is required and two types of tax are payable, for example income tax and stamp duty reserve tax, then the filing requirement is the earlier of the two, being the 5 October deadline.

### **Missing Deadline**

In the first year of TRS, being the current year as at the date of this note, there will be no penalty imposed where registration is completed after 5 October but before 5 January 2018. This only applies to a trust that is not already registered under self-assessment and has either incurred an income tax or capital gains tax liability for the first time.

With regard to missing the 31 January deadline, HMRC will set out the penalty framework in the near future but the legislation requires that any civil penalty imposed must be proportionate to the offence committed.

### **Updating TRS**

HMRC is developing a service to allow lead trustees and their agents to update their registered information or to declare that there have not been any changes to their registered information in 2018. A "lead trustee" is relevant where a trust has multiple trustees, and is the trustee designated to deal with HMRC.

The trust register will need to be updated by 31 January after the end of the tax year in which the change occurred if the trustees incurred a liability to pay any of the relevant UK taxes in the previous year. It is expected that trustees ensure that the details of their trust are accurate and up to date at any point in time they make changes on the TRS. Where no changes have taken place, the update can be limited to confirmation that no such changes have occurred.

If the trustees are not liable to pay any of the relevant UK taxes then there is no requirement to update the register.

Changes can be made to reflect the following at any time:-

- Trust's correspondence address
- Change the lead trustee.
- Add/remove details of people associated with the trust, including beneficiaries who are no longer deemed to be either actual or potential beneficiaries
- If the trust terminates

Details of trust assets are only provided once at the first point of registration. If there are changes to the trust assets there is no requirement to update the TRS.

Registration is online at [www.gov.uk/government/publications/trusts-and-estates-trust-details-41g-trust](http://www.gov.uk/government/publications/trusts-and-estates-trust-details-41g-trust)

### **Information Required by the TRS**

- details of trust assets, including addresses of UK properties, and a market valuation of assets held at the date the assets were settled; and
- The identity of the settlor, trustees, any person exercising effective control over the trust and the beneficiaries or class of beneficiaries (where individual beneficiaries have yet to be determined or identified).

This information required will include:-

- name
- date of birth
- national insurance number if they are UK resident unless they are under 16 years old or a unique tax reference (UTR)
- an address and passport or ID number for non-UK residents, if they have a national insurance number

The following details will be required for the lead trustee company:-

- Company name, email, UTR if available. If no UTR is available a registered address is required.

For individual settlors, protectors, trustees and beneficiaries, the following is required:-

- Name, date of birth, national insurance number or UTR. If a national insurance number is not available, passport or ID card details are required (i.e. passport/ID country of issue, number, expiry date) and address.

If the settlor has died, the date of death should be included and the last known address provided if national insurance number or UTR is unknown.

**What is meant by any person exercising effective control over the trust?**

- a person who can compel the trustees to dispose of, advance, lend, invest, pay or apply trust property/assets
- a person who can compel the trustees to vary or terminate the trust
- a person who can compel the trustees to add or remove a beneficiary to or from as class of beneficiaries
- a person who can compel the trustees to appoint or remove trustees
- a person who has the power directly to appoint trustees, or to add or remove beneficiaries

Helpline [www.gov.co.uk/government/organisations/hm-revenue-customs/contact/trusts](http://www.gov.co.uk/government/organisations/hm-revenue-customs/contact/trusts)