

# Trust Special Part III

## UK Trust Administration

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In this fortnight's Private Wealth Planning series briefing, Trust Manager [Matthew Clarke](#) considers the administrative burden on trustees and suggests why you may want to outsource this to a professional

It is the responsibility of the trustees to make sure that the trust compliance and records are kept up to date, and that all taxes are properly reported and paid. As a trustee you should be aware of the following:

### **How do we register the trust with the UK Revenue (HMRC)?**

Registration takes place through HMRC's Government Gateway website, and this can be done either by you as a trustee, or your agent can register the trust on your behalf.

<https://www.gov.uk/guidance/register-a-trust-as-a-trustee>.

### **Do we need to register the trust elsewhere?**

There is generally a requirement to register any taxable trust of which you are a trustee on the Government's trust register. The scope of this has recently been expanded to many non-taxable trusts and this is discussed in the following article:

<https://www.phb.co.uk/legal-updates/trust-special-part-i-the-trust-registration-service>

### **Do we need trust Accounts?**

Trustees have a fundamental duty to keep a clear and accurate account of their stewardship of the trust funds and to provide accounts to the beneficiaries on request. Unlike company accounts, there are no statutory or other formal rules about the format or frequency of trust accounts, but normal practice is that trust accounts are prepared at the end of each tax year so that there is an accurate record of the income and capital position of the trust from time to time. The accounts will also ensure that the trust assets have been properly accounted for, liabilities have been discharged and that beneficiaries have received their entitlement from the funds.

Accurate accounts are also very helpful in providing information required to complete the trustees' tax returns.

**Do we have to have trustee meetings?**

There is no requirement to have formal trustee meetings but trustees are under an obligation to manage the trust for the best interests of the beneficiaries and must act unanimously (unless the terms of the trust provide otherwise). Having meetings at which you discuss your duties and the beneficiaries' interests is good practice and helps to demonstrate that the trustees are properly discharging their obligations.

**What is our responsibility for reporting and paying tax?**

The tax treatment of trusts varies according to the terms of the trust, the residence of the trustees and the tax profile of the settlor. However, with the exception of bare trusts, in broad terms any trust with a UK nexus that receives income or generates capital gains will be liable to UK income tax and/or capital gains tax each tax year.

In order to assess the income and capital gains tax due it is necessary to complete a yearly tax return (an SA900) and submit this to HMRC before the 31 January deadline following the end of the tax year in question (nb the UK tax year runs from 6 April in one year to 5 April in the next). Depending on the amount, the tax liability for that tax year (and a first payment on account for the following tax year) will be due on the 31 January following the end of that tax year, with a second payment on account for the following tax year falling due six months later on 31 July.

Inheritance Tax may also be due if assets are added to a trust, the trust has had a ten year anniversary, capital has been distributed from the trust or there has been the death of a life tenant. In these circumstances an IHT100 will need to be completed along with the supporting schedules, and will need to be submitted to HMRC within six months from the end of the month in which the taxable event took place.

**Does trust information get passed between authorities worldwide?**

As a result of the 'Common Reporting Standard' (CRS) or 'Automatic Exchange of Information' (AEOI) the UK and EU member states have agreed to exchange information to enable tax authorities to understand the extent of financial assets held abroad by their residents.

The Foreign Account Tax Compliance Act (FATCA) was introduced in the United States 2010 to ensure that its country citizens were fully disclosing their worldwide income to the Internal Revenue Service (IRS). This in turn created a number international agreements with the United States, one of which was with the UK, the result of which is that trustees can now have reporting obligations based on what assets are held along with how those assets are managed, and whether the trust is classed as a 'Financial Institution'.

**What are my obligations, as a trustee, in relation to trust investments?**

Trustees have wide statutory powers of investment. Not only must they exercise those powers in the best interests of the beneficiaries, in most cases they must also obtain and consider 'proper advice' and have regard to the suitability of the investment and the need for diversification.

Rather than taking investment decisions themselves, trustees also have a statutory right to delegate investment functions to professionals, usually through a discretionary managed share portfolio. It is a statutory requirement that the trustees prepare an investment policy statement, which is an agreement between the trustees and the

investment manager setting out the investment goals and objectives and the strategies that the investment manager should employ to meet these objectives. The terms of this policy should reflect the type of trust and the interests of the beneficiaries.

### **Do we need to employ a professional to administer the trust for us?**

No – trustees can deal with trust compliance themselves. However, it is often seen as good governance for the administration of a trust to be handled by a third party, who can also ensure trustees are kept up to speed on changes in the law and changes in reporting obligations.

**If you would like to discuss any of the issues raised, please do not hesitate to contact the author or your usual Payne Hicks Beach contact**



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