TECHNICAL ADVICE

FROM THE IPW TECHNICAL PANEL

Trusts Registration Service

As you are aware with effect from 1st September 2022 ALL Express trusts, whether they have tax consequences or not will have to be registered with HMRC. There are some exceptions to this.

This is in accordance with the 5th Money Laundering Regulations which we have made you aware of via various updates since October 2020, when it was first announced.

For more details on deadlines and executions, see the training manuals for the Intro to Trusts and Intro to Tax courses plus the update that was sent out in November 2021 which is available in the members' section of the website.

Whilst it is the ultimate responsibility of the trustees to register the trust, many IPW members (myself included) feel that they owe an obligation to their clients to either assist them with the registration or at least help them or guide them in the right direction.

Whilst Will trusts do not have to be registered until death (and only then if they are in existence 2 years after death), we should be informing our clients when we draft their Wills that the trust will one day need to be registered.

I have been sending guidance out to trustees informing them of this and informing them that they can do this themselves or they can engage the services of a professional company to do it.

If the trustee does it then that is fine but as professionals we will need to have a HMRC account which will allow us to register all of our trusts (and estates if you deal with probate) all in one place. It is not desirable to have a separate account for each trust that we register.

In order to register for a HMRC Agents Services Account, you will first need to register for a HMRC Agent account.

The link below will take you to the site that you need which gives the information that you will need to supply.

https://www.gov.uk/guidance/register-with-hmrc-to-use-an-agent-services-account

As you can see, the application cannot be made on line, you need to send the information to HMRC by post and after 28 days (or so!) they will send you your log in details for your Agent account (if you are approved). You can then set up your agent services account and be able to register your trusts and estates as you need to.

As you can see from the page, the information you will need to supply is:

- full name
- trading name (if different)
- address that your business activities are carried out from (this cannot be a PO box address)
- telephone number
- email address
- National Insurance number
- Self-Assessment Unique Taxpayer Reference (UTR) (you must provide this if you are a director with a UTR, a sole trader or a partner)
- partnership UTR, limited liability partnership UTR or company UTR (if applicable)
- company registration number (if applicable)
- VAT registration number (if applicable)
- PAYE Employer reference (if applicable)
- details of which taxes you plan to deal with

If your business has multiple partners or directors, you'll need to provide their:

- full names
- National Insurance numbers
- Self-Assessment UTRs (if applicable)

You'll also need details of your anti-money laundering supervision registration details including:

- who your ***supervisory authority*** is and documentary evidence confirming supervision of your accountancy services (check with your supervisor what evidence you should provide)
- your anti-money laundering supervision registration number ***if HMRC is your anti-money laundering supervisory authority***

Your application will be rejected if you do not provide the right documentation.

As you can also see you will need to provide details of your supervisory body. If you are not regulated or supervised by any regulated body you will need to be registered for Money Laundering by HMRC.

Many IPW members are already registered with HMRC as they give tax advice but if you are not registered and you wish to do so you can do it online at

https://www.gov.uk/guidance/register-or-renew-your-money-laundering-supervision-with-hmrc

Lifetime Trusts

All Lifetime Trusts will need to be registered immediately (and the need to do so has been in force since 31st January 2022) and the person that drafts your trusts should be able to offer that service. My drafter is offering that service and he is an IPW member. I am also aware of some other IPW members who are able to offer this service so please get in touch if you need a referral.

Previous Clients and Trusts

We have all done Wills for clients many years ago and we may not have any idea as to whether they have died or are still with us.

I have been asked many times whether it is our responsibility to contact all of our clients and let them know that the trust needs to be registered.

It could be that we did a Will for someone 20 years ago which had a trust and that trust many have come into effect 5 years ago.

Firstly, the guidance we give to trustees and Executors after the Will is complete, is that they should seek legal advice as soon as the testator dies.

If the trustees have done that then they should be aware of the need to register the trust now.

Secondly, we may not be able to contact the client (they may have moved or died and the house no longer be in their name or within their family)

Thirdly, we may not be able to contact the trustees as they may have moved away etc.

Additionally, the Will we did for the client many years ago may have been rewritten.

I send out review letters to my clients every 2-3 years and many of them come back "gone away". However often the clients will get in touch to let me know that they or their Executors/Trustees have moved.

There has been a lot of press about this and I have had some enquiries from many of my previous clients who have either heard about it in the press or their accountants have let them know about it.

As a probate practitioner I have set up many trusts in the past which did not require registration at that point but may need to be registered now.

My advice at this stage would be:

1) Contact the company that drafts your lifetime trusts and ask them to confirm that they will offer the registration service. If they do not, then contact me for details of IPW members who can do this on your behalf. We have many accountants and other members that can provide this service.

2) Ensure that your current clients are aware of the possible need to register their Will trust in the future

3) Set up your agent services account if you intend to offer the service yourself

4) (Preferable) Contact your previous clients and give guidance about the trusts register. I have done this by post to the last known address. I appreciate that this is time consuming and expensive but it is also a good way of updating your data base as some of the letters will come back "gone away".

I hope this has given you some clarification but please get in touch if you need any further advice.

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Chair and Head of Training