

LTA UPDATE – HMRC TRUST REGISTRATION SERVICE

BACKGROUND

Unincorporated tennis clubs (i.e., clubs which are not set up as a company) have no separate legal personality from the members, so the club's assets (potentially including land, property, loans and/or bank accounts) are usually held by a separate legal entity on behalf of the members. It is therefore common for a small number of members to agree to act as trustees, and this arrangement is usually evidenced by a trust deed.

TRUST REGISTRATION

Under Anti-Money Laundering Regulations 2020 all “express trusts” are now required to register with HMRC. An “express trust” is simply any trust – including a bare trust where the beneficiaries are absolutely entitled to the relevant assets – that was deliberately set up by the parties (as opposed to a trust which is implied, for example by conduct or dealings).

Generally speaking, trusts which were in existence on 6 October 2020 must be registered with HMRC by 1 September 2022. Other trusts established since that date should have 90 days (after they are established) to register with HMRC.

EXCLUSIONS?

HMRC has confirmed that there is no general exemption (from the requirement to register with HMRC) for bare trusts, which should therefore be registered unless one of the specific and narrow exclusions applies. By way of example, charitable trusts and other trusts imposed by statute (for example as a result of bankruptcy) are excluded from the requirement to register.

It is widely accepted that none of these exclusions will apply in the context of a bare trust holding assets on behalf of the members of an unincorporated tennis club. HMRC has also confirmed that there is no exclusion (from the requirement to register with HMRC) for trusts which hold assets on behalf of CASCs.

ACTION

A step-by-step guidance summary can be found at the end of this guidance note.

The trust registration process must be completed online, and – as a prior step – it is necessary to set up a “Government Gateway” user ID and password.

The primary obligation falls on the trustees (who can agree to nominate a lead trustee), to register the existence of the trust with HMRC, as well as providing certain information relating to the trust as follows:

- Trust Details (including the name of the trust, the date of creation, whether the trust has recently acquired land or property, whether all of the trustees are based in the UK)

- Settlor (the “settlor” of the trust will usually be the club, and it will generally be UK resident)
- Trustees (including the name, date of birth, nationality and other personal information of those members who act as trustees)
- Beneficiaries (this will generally be a class of beneficiaries, being “the members of the club”, rather than a list of names individuals)

There are additional sections for trusts which own companies, trusts which have “protectors”, and trusts relating to “other individuals” (however it is unlikely that any of these additional sections will be relevant to a bare trust holding assets on behalf of an unincorporated tennis club).

Once the registration has been completed, which must be done online, there is an ongoing requirement to keep the information correct and update the record for any changes as and when they occur (there is no need to make annual returns).

PENALTIES

HMRC guidance suggests that no penalty will be charged for late registration in the first instance (instead “nudge” letters will be sent to those trusts already known to HMRC, setting out the responsibility of the trustees to register with HMRC). A fixed penalty of £100 might be charged by HMRC for failing to keep the registration details up to date, however (as with late registration in the first instance) it is not expected that penalties would be charged in respect of the first failure to update the registration details.

GUIDANCE

Step 1 – set up a Government Gateway account for the trust (as an “organisation” account, not an “individual” account).

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

Step 2 – start the trust registration online

Most trusts will not have already been registered online (so select “no” to the first question), and the trust will generally not have a unique taxpayer number either (so select “no” to the second question). The trust will have been deliberately set up, usually by way of a formal trust deed (in which case select “yes” when asked if you are registering an express trust).

It is likely that the trust will not have had any tax liability in the previous four years, in which case select “no” to the following two questions.

Step 3 – complete the “trust details” section

You will need the name of the trust and the date on which it was created. The registration asks whether the trust has acquired land or property in the UK since 6 October 2020 and whether the trust is registered elsewhere in Europe (both of which will generally be “no”). The final question in this section is whether the trustees are based in the UK (which will generally be “yes”).

Step 4 – complete the “settlers” section

The “settlor” is usually the person who created the trust and agreed for the assets to be held by the trustees, i.e., the club (which can be reported as a “business” for these purposes, as opposed to an “individual”).

Step 5 – complete the “trustees” section

It is recommended that a lead trustee completes this section, as an “individual” (rather than a “business”). There are a number of details to include (such as name, date of birth, nationality, National Insurance number and address). Once the lead trustee details have been included the remaining trustees should also be added.

Step 6 – complete the “beneficiaries” section

The beneficiaries of the trust will usually be the members of the club, in which case they can be include under “class of beneficiaries”, with an appropriate description.

This guidance notes has been prepared by the LTA Legal & Tax Helpline. For further advice and guidance please contact the [LTA Legal & Tax Helpline](#).