

Trust registrations

The Trust Registration Service is an online system by which trustees can register a trust with HMRC. It is now a requirement that certain types of trusts, even if they are not taxable, such as a life interest in a property to a spouse type trust, are registered with HMRC.

HMRC have a Trust Registration Service Manual on their website which has full details of exemptions and requirements for registrations of trusts.

Trusts created by a Will

A trust created by a will that holds only property from the estate of the deceased person is excluded from registration for a period of two years from the date of death of the deceased.

A will may direct that a specific legacy, instead of going directly to an individual, be held on trust. In this case the trust will be treated as having commenced with effect from the date of death of the deceased person.

If the trust is still in existence two years from the date of death, or if at any date beforehand the trust accepts an addition of property from outside the estate, it will then need to be registered from that date.

Other trusts affected by the will may commence at a later date, either during or before the end of the administration period. In such cases, the trust is not required to be registered until assets have been transferred from the estate to the trust, and only from two years following the date of death.

Co-ownership of property trusts

Trusts of jointly held property where the trustees and beneficiaries are the same persons are excluded from registration. These trusts often arise in the purchasing of property in joint names and the buyers want to sign a deed of trust.

Where two or more persons purchase property together, they often hold the property as beneficial joint tenants, meaning the property passes by survivorship on death to the remaining co-owner.

However, two or more persons purchasing property may instead elect to hold the property as tenants in common, allowing each person to hold a defined (and not necessarily equal) share of the property, which then passes separately with their estate on death.

The proportions that the property is held in as tenants in common are not relevant for the purposes of Registration on the Trust Registration Service.

Examples of trusts from HMRC Trust Registration Service Manual

Example 1

Alice and Bob wish to purchase a property together. They elect to hold the property as tenants in common, allowing them to declare that Alice owns 70% of the property and Bob owns 30%. To achieve this, they create a trust for ownership as tenants in common. As Alice and Bob are both the only trustees and the only beneficiaries of the trust, the trust is not required to register on Trust Registration Service. Alice subsequently dies and by the terms of her will leaves her share of the property on trust to Bob to occupy for the remainder of his life; and thereafter to her daughter Clara. Alice's son David is appointed as executor and trustee of the will and also appointed as a second trustee of the property with Bob. The ongoing trust of the property is no longer an exempt co-ownership trust as the trustees and beneficiaries are not the same persons. Registration is therefore required 90 days after Alice's death.

Example 2

John dies in England on 1 June 2022. He leaves his estate to his executors and trustees to hold on trust to pay his debts and funeral expenses and to divide the remainder between his wife and brother in equal shares absolutely. Under English law this creates a trust. As a trust created by will, the trustees are not required to register the trust immediately on John's death. The estate is fully administered and all property in the residuary estate is distributed to his wife and brother by December 2023. As this is within two years of John's death, there is no need for the trust to be registered on the Trust Registration Service (TRS).

Example 3

Charles and Debra live together in a property owned outright by Charles. Charles dies and by the terms of his will creates a trust which gives Debra a life interest in the property, with the trustees having the power to sell and purchase a replacement property on the same terms. As a trust created by will, the trustees are not required to register the trust immediately on Charles' death. 12 months following Charles' death, the trustees sell the property and use the proceeds to purchase another property of similar value on the same terms, with Debra retaining her life interest. As the trust fund still consists only of property from Charles' estate (there has been a substitution but no additions), the trust is still excluded from registration. If the trust is still in existence two years after Charles' death, the trust needs to be registered from that point.

What are the deadlines for trust registration?

- Non-taxable trusts in existence on or after 6 October 2020 must be registered by 1 September 2022.
- Non-taxable trusts created after September 2022 must be registered within 90 days.
- Changes to the trust details or circumstances must be registered within 90 days of the change.

Why do I need to register my trust?

There is a legal obligation for trustees to register the trust, but some trusts are exempt. HMRC will enforce penalties if you do not register your trust, or you do not keep the details on the register up to date.

What trusts are exempt from registration?

The list of exempt trusts can be found on the HMRC Trust Registration Service Manual on their website.

What information do I need to register the trust?

A complete list of what information is needed is available on the HMRC Trust Registration Service Manual on their website.

What trust changes must be recorded?

You must update the register if the trust becomes liable for Income Tax or Capital Gains Tax or if there are any changes to trustees, beneficiaries or settlors details. Changes must be recorded on TRS within 90 days of the change to avoid fines and penalties.