

UK Trust Registration Service – changes impacting Unit Trusts

A recent change made to HMRC's position on unauthorised unit trusts and their requirement to register on the TRS could see many unit trusts, that were previously excluded, now brought within scope of TRS registration.





Background and new requirements

The UK's Trust Registration Service ("TRS") has seen various changes made since its original creation in 2017 as to which trustees of trusts are required to register.

A recent and potentially significant change has been made to HMRC's guidance in respect of the TRS. The guidance now states that unauthorised unit trusts with no UK trustees may now need to register.

Up until very recently, this was not the case. The previous position adopted by HMRC was that such unauthorised unit trusts did not require to register, on the basis that HMRC did not view them as "express" trusts. This position has changed with the revised guidance that has now been published.

This change is now likely to see Jersey and Guernsey Property Unit Trusts ("JPUTs/GPUTs") require to be registered on the TRS, where they meet the necessary requirements.

The requirements may be met where:

- a JPUT/GPUT acquired an interest in UK land or property after 6 October 2020; or
- a JPUT/GPUT had a liability to UK taxation since 6 April 2016.

Due to such structures generally being transparent for the purposes of UK taxation, the main tax liability that may trigger a registration requirement since 2016 would be a purchase of UK land or property which gave rise to a Stamp Duty Land Tax ("SDLT") liability.



What trustees need to do now

Trustees now require to consider existing JPUT/GPUT structures, together with certain structures that have been wound up, but would have met the registration requirements, as to whether TRS applications may be required.

Where there is a requirement to register on the TRS, the trustees will need to supply all necessary information to effect the registration. Further, the annual and ongoing 90 day update requirements will require to be adhered to.



Timelines and Penalties

Many registrations will be late, as the usual deadline to register a large number of affected structures will have passed.

However a failure to register, or late registration on the TRS, will not immediately incur penalties if this is a first time offence. Note however that HMRC can issue penalties if they deem there was intentional or deliberate behaviour of the trustees not to register. As a result we would expect that registrations that are made as soon as possible should hopefully not attract penalties.

Where they do apply, penalties are set to a limit of £5,000 per offence.



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