



GMS Flash Alert

Global Compensation Edition

2022-083 | April 15, 2022



United Kingdom - 1 September 2022 Registration Deadline for Certain Employee Trusts

Employee Benefit Trusts (EBTs) with relevant U.K. tax liabilities have been required to register with the U.K. tax authorities' Trust Registration Service (TRS) since June 2017.

Changes introduced by the Fifth Money Laundering Directive mean that, subject to limited exceptions, employee trusts without a relevant U.K. tax liability may also be required to register with HM Revenue & Customs (HMRC) **by 1 September 2022**.

Note that whilst EBTs often operate in connection with employee share plans, the obligation to register and report certain information under the TRS is separate from an employer's annual U.K. employee share plan reporting (see our report published today in [GMS Flash Alert 2022-084](#), 15 April 2022).

WHY THIS MATTERS

The obligation to register an EBT under the TRS falls on the trustee. However, sponsoring employers have an ongoing reputational interest and governance role in making sure that employee trusts are registered where required, and that the information provided to HMRC is complete and correct. Penalties can arise for late registration.

Trustees and sponsoring employers should therefore review their EBT's circumstances and confirm whether they should register. Any EBTs which should have been registered under the TRS in a prior year should now be registered without delay.

Regardless of whether a TRS obligation arises, trustees of non-U.K.-resident EBTs may wish to check whether the trust was notified to HMRC under separate reporting obligations within three months of its establishment.

Registering Taxable EBTS

Trustees are required to register an EBT if it has a liability to U.K. income tax, Capital Gains Tax (CGT), Inheritance Tax (IHT) (effectively a transfer tax), Stamp Duty Land Tax (or the equivalent Scottish or Welsh tax), or Stamp Duty Reserve Tax (SDRT).

KPMG NOTE

In summary, EBTS might have a liability to U.K. income tax if they have U.K.-source income. It is therefore important to confirm whether an EBT receives any U.K.-source interest (e.g., from a trust bank account located in the U.K.), dividends from U.K. companies, or any other U.K.-source income.

U.K. CGT or IHT charges are unlikely if the trust is set up and run in a way that qualifies for specific employee trust exemptions from IHT and CGT (or is non-U.K. resident and so outside the scope of CGT).

Acquisitions of shares in U.K.-registered companies can trigger SDRT liabilities and create TRS registration obligations. These are sometimes overlooked. However, no SDRT should arise on a subscription for newly-issued shares, or on the purchase of shares traded only on the Alternative Investment Market (or another recognised growth market) or held in treasury.

New Registration Requirement for Non-Taxable EBTS

An EBT without a relevant U.K. tax liability might be required to register **by 1 September 2022**, if all its trustees are U.K. resident, or at least one of its trustees is U.K. resident and its settlor was either U.K. resident or domiciled when the trust was established, or when further funds were settled.

Other non-taxable EBTS may also be required to register if they:

- acquire an interest in U.K. land; or
- have at least one U.K.-resident trustee and establish a business relationship with a 'relevant person' in the U.K., which includes financial institutions, accountants, tax advisers, legal advisers, and estate agents.

Trustees will also be required to register a non-taxable trust where they hold assets on bare trust (e.g., where senior executives' shares are held under nominee arrangements for reasons of commercial confidentiality or administrative convenience).

However, some non-taxable EBTS could be exempt from registration. These include trusts that hold certain life insurance or retirement policies, and statutory trusts established under a U.K. tax-advantaged all-employee Share Incentive Plan (SIP) or set up solely for the purposes of a tax-advantaged all-employee Save As You Earn (SAYE) option plan. EBTS with 'mixed use' would not benefit from the SAYE share plan trust exclusion. Other exemptions can potentially apply.

KPMG NOTE

The exemptions from registration as a non-taxable EBT for U.K. tax-advantaged SIP and SAYE share plan trusts may be of limited application. This is because many such EBTs will incur SDRT liabilities on acquiring shares in U.K.-registered companies and so be required to register as taxable EBTs (see above).

Time Limits for Registering EBTs with HMRC's TRS

The deadline for registering a taxable EBT depends on when the trust was established and when a relevant U.K. tax liability first arises:

Trust established	When a relevant U.K. tax liability first arises	Registration deadline
Before 6 April 2021	At any time	5 October following the end of the U.K. tax year (a U.K. tax year runs from 6 April – 5 April) in which a relevant U.K. tax liability first arises if that liability is to income tax or CGT, or 31 January following the end of the U.K. tax year in which a relevant U.K. tax liability first arises if that liability is to another relevant tax
After 5 April 2021	Before 4 June 2022	1 September 2022
After 5 April 2021	After 3 June 2022	Within 90 days of the date on which a relevant U.K. tax liability first arises

Non-taxable EBTs that meet the conditions for registration must be registered **on or before 1 September 2022** if they were in existence on 6 October 2020.

Relevant non-taxable trusts created after 6 October 2020, must register within 90 days of being created or otherwise becoming registerable **or**, if later, by 1 September 2022.

Information to Be Provided to HMRC

On registration, trustees must provide HMRC with prescribed information relating to the EBT and its settlor, trustees, beneficiaries, and assets.

Given the potentially large number of individuals who might benefit from an EBT, HMRC accepts that in some circumstances it is not necessary to provide the prescribed information in relation to all potential beneficiaries.

Trustees of taxable EBTs are also required to keep the information on the TRS up-to-date or confirm annually that there have been no changes.

KPMG NOTE

Confirming an EBT's TRS position can be complex. Employers are advised to consult with their qualified tax professionals to confirm their reporting obligations and understand the registration process. They may also wish to seek assistance with compiling the required information and filing the relevant submissions with HMRC.

Trustees and sponsoring employers should put appropriate systems in place to help ensure that EBTs which need not currently be registered are monitored so that registration can be made on a timely basis if they incur a relevant U.K. tax liability or meet the conditions for TRS registration as a non-taxable EBT.

FOOTNOTE:

1 For additional information, see HMRC, '[Manage your trust's details](#)' (published 3 April 2020 and last updated 29 September 2021).

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