

Trust Registration Service (TRS) – LESSONS LEARNT

Wednesday 23 May 2018 from 11.30am to 1.00pm

HMRC Offices, 10 South Colonnade, London

ATTENDEES	
Adrian Cooper (Chair)	HMRC – Trusts Tax Policy
Nick Davies	HMRC – Trusts Tax Policy
Emma McGuire	HMRC – Trusts Tax Policy
Annie Bush	HMRC – Trust Register Project Team
Roger Blake	HMRC – Trust Register Project Team
Nicola Cranston	HMRC – Trust Register Project Team
Graham Spencer	HMRC – Trusts Tax Policy
Jamil Mohamed	HMRC – Trusts Tax Policy
Neil Chattell	HMRC – Customer Engagement Team
Ben Fischer	HM Treasury – Money Laundering Team
Emily Dean	STEP
Alison Hobbs	Saffrey Champness
Liz Hudson	Smith and Williamson
John Bunker	Irwin Mitchell and CIOT
Adrian Rudd	PWC
Nik White	
Chris Lawrence	
Karen Griffiths	Deloitte
Zaeem Yousseff	E&Y
Leanne Todd	

A. Introduction

1. Adrian Cooper opened the meeting, setting the context for discussion: HMRC recognises that the introduction of the Trust Registration Service (TRS) has not been as smooth as we would like. Following on from the meeting in November 2017, this discussion was an opportunity to learn lessons from the implementation of TRS and to identify what changes could be made to improve usability of the service for future years.

B. Operation of the TRS

2. HMRC colleagues set out the context to some of the key issues encountered with TRS and actions taken to improve the customer experience:
 - a) TRS is being delivered incrementally. Phase 1, enabling the UK to meet its obligations on EU anti-money laundering, delivered access to lead trustees in July 2017. The more complex phase 2, extending access to agents, who form the vast majority of the trust customer base was delivered in October 2017. Phase 3, which is not yet delivered will enable trustees and agents to vary the data on the register.

- b) The first two phases of TRS were delivered using an “i-Form” based service. HMRC’s longer term plan is to make the facility which will allow users to view, amend and update data previously submitted a micro service. This will be more accommodating to the user. A micro-service will have less constraints in respect of the data format and messaging that can be relayed to the user making the completion in respect of data input easier. It will also increase HMRC flexibility to make changes based on feedback. HMRC are committed to working with customers and stakeholders to ensure the new service meets customer’s technical requirements and takes account of user feedback.
- c) We recognise that there may be a need for a third party API, but feedback from Software Developers received to date has not evidenced this need – it was suggested that if agents would value an API they discuss this requirement with their Software Developers to convince them there is a demand for it and provide any feedback, to enable us to take this forward.
- d) HMRC extended the registration deadlines and introduced dummy variables to enable registration to proceed where information was not forthcoming.

C. Current issues with the TRS

- 3. Trust customers and stakeholders raised a number of issues. These were as follows:
 - a) UTRs being sent out to trustees but not to the agent. In some cases the trustees were not informing the agent as they thought HMRC had done so.
 - b) Receiving a request to complete four years of tax returns when in most cases there was no income tax or capital gains tax liability incurred other than either SDLT, SDRT or IHT.
 - **Action Point 1:** Nicola Cranston agreed to look at what work that can be done to the service to make it clear when a tax return will be issued and what action can be taken to stop the system issuing tax returns especially when the only taxes being incurred was Stamp and Inheritance Taxes.
 - c) The stress being felt when penalties were issued in relation to tax returns that were not required and the reputational damage caused for agents and professionals even if the penalties were subsequently cancelled.
 - d) In some cases the DOB of the settlor predated 1900 and TRS did not allow such an entry.
 - **Action Point 2:** Roger Blake committed to reviewing the DOB field so that any beneficial owner born before 1900 can be added.
 - e) Agents reported delays in receiving a UTR– in some cases it was taking long as seventy days to receive them.
 - **Action Point 3:** John Bunker to email HMRC details of cases where trusts are not receiving a UTR and Roger Blake to find out what was causing the delays.
 - f) Partially completed TRS returns are only visible to one individual within the firm and there was a need for a delegate access so multiple people within the firm can view and edit.
 - **HMRC Response:** The facility to provide delegate access to partially completed data can only be provided should it be decided that third party API should be delivered, and stressed the need for customers to participate in the user research to gain evidence to support this functionality.
 - g) How should question 20 on the SA900 return be completed given the function to update the TRS is not currently available.

- **HMRC Response:** Where trustees or agents are prevented from making changes to TRS data because the functionality is not yet available box Q20 on the SA900 return should be left blank. Customers will not be penalised for doing this.
- h) The registration form and questions had been changed, which was disruptive as agents' own system had been designed to align with the original form, and as some of the changes occurred close to the 5 March 2018 registration deadline.
- **HMRC Response:** Work is underway to determine a more robust vehicle for sharing any changes with agents to allow any updates to in house tools.
- i) Stakeholders suggested the service could be improved by extending the 28 day time limit for saving and returning to partially completed registration.
- **HMRC Response:** The 28 days is the standard time length and once some of the data fields requiring data like National Insurance Numbers is made optional there will be less need to extend the 28 days, however continuous monitoring of feedback will allow consideration to be given to any extension of the 28 day timeline.
- j) Stakeholders asked whether they had to identify a named beneficiary even if that person was not or unlikely to be in receipt of a financial benefit from the trust.
- **HMRC Response:** Named beneficiaries must be identified on the TRS. There is limited discretion as the EU Directive and TRS legislation required named beneficiaries to be identified on TRS.
- k) Discussion on the penalty framework focussed on references linking the size of a penalty in some cases to its tax liabilities; in particular, was it intended that the size of the penalty should take account of all the taxes a trust incurred like Stamp and Inheritance Taxes in addition to Income and Capital Gains Taxes.
- **HMRC Response:** The penalty was intended to capture all taxes but that penalties were not automatic and will need to be reviewed under 5MLD.
- l) Stakeholders identified difficulties accessing the system where it required two of the three data items submitted (UTR, Trust Name and Postcode) to be matched to the records HMRC already hold. Stakeholders had to try different names of the trust or postcode to obtain a system match and gain access.
- **HMRC response:** HMRC will look at whether another data item, such as date when trust was set up, could be used that would improve accessibility.

D. Specific Issues

Updating the TRS data

4. HMRC provided an update: it will take around 15 months to provide the IT functionality to update existing records on the TRS where information has changed. The 15 months is HMRC's current estimate of the time it will take to deliver all the IT but HMRC hope to deliver iterative releases before then that will gradually build on the functionality over time. HMRC will keep stakeholders informed through the usual channel such as the Trust and Estate Newsletter. In the interim, only changes to the lead trustee or correspondence address should be made and these should be notified to HMRC in writing.

Guidance

5. HMRC explained that it had taken the decision to issue guidance that by-passed the usual process and was published on the STEP website to provide a quicker response to the queries being raised by agents and trustees. HMRC is now working to transfer the guidance onto GOV.UK. HMRC reminded the group that the webinars that they did in 2017 and the associated help sheets are still available on GOV.UK. The Trust and Estate Newsletter will be the main communication channel but other channels will include the Agent Update.

E. EU Fifth Money Laundering Directive (5MLD)

6. HMT provided an update and set out the high level timeline. 5MLD would extend the TRS to all UK express trusts and non-EU trusts that owned UK real estate or had a business relationship with a UK Obligated Entity. The new Directive would require HMRC to share the trust data with Obligated Entities and anyone with a 'Legitimate Interest' – the latter term will be defined in full in due course.
7. HMT is planning to publish a policy consultation in winter 2018/2019 that will last for eight weeks followed by a consultation on draft legislation in spring 2019 that will last for four weeks. The 5MLD is expected to come into law at EU level in July 2018 with transposition deadline of around January 2020 and implementation deadline of around March 2020.

HM Revenue and Customs