

REGISTER OF BENEFICIAL OWNERSHIP OF TRUSTS

Republic of Ireland and Northern Ireland

The Irish and UK governments have recently introduced the obligation on “relevant” trusts to register details of their beneficial owners on trust registers operated by the Revenue Commissioners in the Republic of Ireland and by Her Majesty’s Revenue and Customs (HMRC) in Northern Ireland. The legislation implements certain aspects of the EU’s Fourth and Fifth Anti-Money Laundering Directives. One of the key aims of these Directives is to promote transparency of beneficial ownership information as a way to prevent money laundering and terrorist financing. The legislation is not aimed at regulating charitable trusts and such regulation remains within the ambit of either the Charities Regulatory Authority in the Republic of Ireland or Charity Commissioners for Northern Ireland. The legislation in relation to beneficial ownership of trusts is additional to existing Charities legislation.

Northern Ireland

Recent legislation has now clarified that “charitable trusts” are exempt from the obligation to register on the Trust Registration Service in Northern Ireland provided the trust does not have a UK tax liability. A charitable trust is a trust which has been established for charitable purposes as defined in Charities legislation and includes trusts established for the advancement of religion.

A useful set of FAQs has been issued by HMRC and can be accessed using the following link:

<https://www.gov.uk/hmrc-internal-manuals/trust-registration-service-manual>

Republic of Ireland

The legislation in the Republic of Ireland applies to “relevant trusts” which are express trusts established by deed or declaration in writing whose trustees are resident in Ireland or which is otherwise administered in Ireland. An express trust is a trust which is created intentionally, usually in writing, where the subject matter and the objects are certain. There are some trust arrangements excluded from the ambit of the legislation including occupational pension schemes and tax approved employee share ownership schemes. There is no current exemption for charitable trusts and the legislation therefore applies to trusts established for charitable purposes.

If a trust is a “relevant trust”, the trustees must submit information in relation to the “beneficial owners” of the trust on a newly created Central Register of Beneficial Ownership of Trusts (CRBOT) portal which is operated by the Revenue Commissioners. In relation to charitable trusts, the legislation states that the beneficial owner in relation to a charitable trust within the meaning of Section 2 of the Charities Act 2009 means the trustees, committee or other governing body of the charitable trust and any other individual who has control over the charitable trust. In circumstances where a trust has registered

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with the Charities Regulatory Authority pursuant to the Charities Act 2009, it is anticipated that the trustees for the purposes of the CRBOT will be the same as the trustees registered in the Charities Regulatory Authority. In circumstances where a trust is not a charitable trust, the definition of “beneficial owner” includes the beneficiaries of the trust as well as individuals who control the trust.

Trustees are obliged to make a return to the CRBOT setting out certain information including the name, date of birth, address, nationality and PPS number of its beneficial owners. The CRBOT can be accessed by the Revenue Commissioners, An Garda Síochána and persons known as “designated persons” when they are carrying out due diligence for anti-money laundering purposes (for example banks, accountants, solicitors).

The deadline for registration of existing trusts is 23 October 2021 and the portal remains open after this date for information to be submitted to the Revenue Commissioners. There are penalties set out in the legislation for failure to comply with the legislation.

There are helpful sets of FAQs available on the Revenue Commissioners website:

<https://www.revenue.ie/en/crbot/documents/trust-faqs.pdf>

<https://www.revenue.ie/en/crbot/documents/access-to-the-trust-register-faq.pdf>

If a parish or diocese considers it is impacted by the provisions of the beneficial ownership of trusts legislation, they should contact the parish or diocesan legal advisors who will be able to advise further.