

NAVIGATING UK TRUST RULES FOR NON-RESIDENT TRUSTS

The UK tax considerations for non-resident trusts are complex. Although there are general rules that apply to all non-resident trusts, each trust is different and is treated separately depending on the type of trust involved and the residence status of the settlor and/or beneficiaries.

Non-resident Trustees do not themselves pay UK income tax on foreign income but where UK income is received, the trustees are liable for UK tax but at different rates depending on the type of income received.

An offshore trust may have to pay Capital Gains Tax if assets owned by the trust are disposed of either by way of sale or gift and the value of the asset has increased since being put into the trust, although if relevant, tax on gains is usually payable by either the settlor or the beneficiaries.

If however, the trust disposes of a UK residential property then the trustees may be liable to pay Capital Gains Tax and if so, the disposal must be reported to HMRC within 60 days.

UK tax liabilities in respect of trust income can arise on the settlor of an offshore trust if they are resident in the UK and have settled funds into the trust and can benefit from the income or capital in the trust. Non-resident trustees need to be alert to the issues that may arise where the settlor has a UK right to reimbursement of this liability.

UK resident beneficiaries of an offshore trust may have to complete a Self Assessment tax return depending on the type of income received by the trust. The Trustees should be alert to UK tax implications of their actions on the UK beneficiaries, even more so if there is a mixture of UK and non-UK beneficiaries.

Non-resident trusts may have to pay Inheritance Tax on assets in the trust. Non-resident trusts will only have to pay IHT on UK assets unless the settlor was domiciled (or deemed domiciled) in the UK when the assets were put into the trust, but there are rules that create an IHT liability where certain UK assets are held indirectly as well as on those held directly by the trust.

DEPENDING ON THE VALUE OF THE ASSETS IN THE TRUST, INHERITANCE TAX MAY BE DUE WHEN:

- assets are put into the trust
- the trust reaches a ten-year anniversary
- assets are taken out of the trust or the trust ceases



In addition to the tax rules, overseas trustees should be alert to a possible obligation to register the trust's existence with HMRC as well, and update those details in the event of any changes.

Inevitably, there can be financial penalties for failures to comply with these complex UK obligations for non-resident trusts.

We are specialists in advising trustees, settlors and beneficiaries of the benefits, liabilities and required compliance obligations of offshore trusts and their underlying companies and helping regularise UK tax filings where compliance failures have arisen.

WE CAN HELP YOU WITH:

- Trustees compliance obligations to file tax returns with HM Revenue & Customs
- Residence status of trustees, settlors and/or beneficiaries
- Domicile status of settlors and/or beneficiaries
- Income and gains chargeable to UK taxes
- Trust and Beneficiaries compliance obligations
- Trustee tax obligations and considerations on distributions to beneficiaries
- Settlor interested trusts and Transfer of Assets Abroad rules
- Ten year anniversary and exit charges
- Information notices and requests for information from HMRC
- Managing disclosures of historic UK tax liabilities

PLEASE DO GET IN TOUCH WITH TIM OR RICHARD IF YOU NEED ASSISTANCE AND TO DISCUSS HOW WE CAN HELP.

TIM WALFORD-FITZGERALD

+44 (0)20 7380 4927

[Connect with Tim Walford-Fitzgerald](#)



RICHARD MORLEY

+44 (0)20 7874 7972

[Connect with Richard Morley](#)

