

Register of beneficial owners for Trusts

As of January 2018 all Maltese express trusts have a new obligation: identifying, recording and reporting their beneficial owners to the Malta Financial Services Authority. A right of access to such new information will also come about.

IDENTIFICATION, RECORDING AND REPORTING

Which arrangements must comply?

Regulations apply to any trust which generates tax consequences and irrespective of the manner in which the trust is treated, or elects to be treated in terms of Maltese tax.

What and how to disclose

The trustee of an trust must submit a declaration of beneficial ownership in respect of every such trust which generates tax consequences. The information to be provided shall consist of: name; date of birth; nationality; country of residence; an official identification document number indicating the type of document and the country of issue; role of the beneficial owner in relation to the trust, and in the case of a class of beneficiaries, the nature and extent of the benefit as well as, where applicable, an indication as to whether the trust instrument includes any suspension of the trustee's duty to inform such beneficiary of his benefit under the trust or that he forms part of a class of beneficiaries which may so benefit.

Where a trust is set up solely for a charitable purpose, the trustee is only be required to provide the beneficial ownership information relating to the settlor, the protector and any other person exercising control over the trust.

When to record and report

The reporting obligation arose as from 1st January 2018.

In respect of every trust which was set up and in respect of which the trustee was so acting prior to the coming into force of the regulations, the trustee must submit a declaration of beneficial ownership within six months of the coming into force of the regulations.

Penalties

Where a trustee contravenes or fails to comply with any of the provisions of the regulations, the Authority may impose an administrative penalty which may not exceed €150,000.

ACCESS

As of 1st April 2018 access to the above will be granted to a number of persons as follows:

- national competent authorities with designated responsibilities for combating money laundering and terrorist financing;
- the Financial Intelligence Analysis Unit;
- national tax authorities;
- any other national competent authority within the meaning assigned to it under the Prevention of Money Laundering and Funding of Terrorism Regulations, not already covered under above paragraphs; and
- subject persons in terms of the Prevention of Money Laundering and Funding of Terrorism Regulations, for the purpose of carrying out customer due diligence in accordance with the said regulations.

Exceptions

Access to information on a beneficial owner of a trust may not be granted, where in exceptional circumstances it is justified that such access to beneficial ownership information would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable.

Can you make it on your own or do you need help?

At KPMG, we have a dedicated team of professionals who can help with an efficient management of the overall processes to ensure clients are fully compliant with the new requirements, including:

- Providing guidance on the duties and obligations in force at the level of both the legal entities, other legal arrangements, and officers.
- Analysing the implications of and identifying the manner of application of the new requirements.

In addition, our dedicated team and correspondents in other member firms can provide integrated corporate and tax compliance services across the globe.

Our Core Annual Service looks to assist clients with the routine corporate matters their entities face each year, including ongoing maintenance of corporate registers, which will include preparing and keeping the 'UBO Register' duly updated.

Contact us



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