

NewsLetter

For Trusts & Estates Practitioners

Help for Agents

HMRC Inheritance Tax & Trusts introduce new services for agents

HMRC is making changes that will improve the services and support provided to agents dealing with Trusts and Estates. HMRC hopes that by working together, the changes do not cause problems on either side. The aim is that, whilst working with the resources available, ways can be found to improve your access to HMRC support and interaction with agents.

New services

Agent Dedicated Line

This summer HMRC Trusts will be introducing a new Agent Dedicated Line specifically for Trusts enquiries. The new service will be staffed to a high standard. It will assist in identifying issues where better clarification needs providing and help to ensure HMRC guidance meets our customers' needs. Information will be collected about the nature and frequency of the enquiries received and the most frequently asked questions and answers will be shared with the wider agent community.

Updates will be provided on issues that will be of concern to

agents and raise awareness of new developments on the Trusts and Estates front. Learning more about how these elements are working, will enable discussions with agent representatives on how they might be developed and taken forward to benefit both the agent community and HMRC.

A new Toolkit for the Trust & Estate Return

This is part of a wider HMRC focus on ensuring correct returns are submitted rather than on compliance checks after an error has been made. The toolkit sets out the common errors regularly seen in Trust and Estate returns, and suggests steps that can be taken to reduce the possibility of these errors being made. The new toolkit will incorporate the Capital Gains for Trusts toolkit which was piloted with a small number of agents and take on board the lessons learned from that trial. Use of this toolkit is entirely voluntary and has been available to all from mid-May 2010.

Many practitioners already fully understand the issues the toolkit raises; however feedback from the pilot has shown that some practitioners welcome the assurance provided by the toolkit that their processes work, and that they can readily demonstrate reasonable care. Others have found one or two new points they were unaware

of, and junior or inexperienced staff within practices have found the toolkit a helpful source of support. It should also be borne in mind that the toolkit will develop and change as we build upon our experience and if you identify issues that you think need addressing such feedback can help determine the future shape and usefulness of the toolkit.

The Inheritance Tax account form IHT400 toolkit

A toolkit for agents which shares risks to compliance when completing the Inheritance Tax account Form IHT 400 is in the final stages of development. It is currently being trialled with 100 agents over a three month period.

During the trial the volunteer agents will be asked to inform HMRC Inheritance Tax when they have used the toolkit to help them complete an IHT400. This will allow HMRC Inheritance Tax to follow the journey of the IHT400 through the office and help measure the benefits for both the agents and ourselves.

Feedback on the toolkit will be asked for, to help identify any improvements that can be made before it becomes available to the wider agent community through the HMRC website towards the end of the summer.



Welcome

Welcome to the June 2010 edition of the Inheritance Tax & Trusts Newsletter. Included this month are articles on changes to the Trusts & Estates 2009-10 SA return, Employee Benefit Trusts and two articles from our colleagues in HM Courts Service.

If there are any issues you would like addressed in a future edition, please email the [Customer Service Team](#).

David Smith
Head of Inheritance Tax & Trusts

Contents

Help for Agents	1
Welcome	2
SA900 Toolkit tickbox.....	2
Bare Trusts and self assessment	2
Employee Benefit Trusts	3
2009-10 SA900	3
Tax pool calculator.....	4
National heritage property	5
More information	5
HM Courts Service	6
Probate guide.....	6

SA900 Toolkit tickbox

New toolkit tickbox for 2009-10 Trust and Estate Tax Return

The 2009-10 Trust & Estate Return includes a simple voluntary tickbox to indicate whether the toolkit has been used. This may be viewed with some concern by some agents, please be reassured that the tickbox will be used only to gather some basic data to show how widespread its use has been. Without this data it will be very difficult to assess the value of the toolkit, the extent it has been used, and how best to improve the support on offer. So if you do use the toolkit it will help if you tick the box.

The tickbox will not be used for risk assessment purposes in any way, nor will an empty box generate an enquiry. The notes to the return make it clear that the signatory bears no responsibility for the completion or non completion of this box so it will not and cannot be used as part of any challenge about the accuracy of a return.

A flexible view is taken by HMRC on what “using” a toolkit means. There are many ways to use it and much will depend on the practices you currently use. For example:

- Some may want to work through the return checking off each box on the checklist.
- Others will read the toolkit and be content that the risks it contains are understood and will be addressed appropriately should they arise.
- It may mean checking the consistency of the firm’s returns preparations systems with the toolkit (using either dedicated software or other measures).
- The checklist is capable of being used in a free-standing way, but it is possible to use the toolkit without using the checklist.
- Tax calculations are often provided by fund managers or other intermediaries – using the toolkit does not require you to recheck their workings.

HMRC Trusts and representative bodies agree that a tickbox would be inappropriate on the wider SA return, it will only appear on the 2009-10 SA900 return. It will not reappear in later years unless there is agreement with professional bodies that a further data collection exercise would be useful.

HMRC welcomes any feedback you may have on the toolkit or the agent dedicated line – please email any comments to [Kevin Beard](#).

Bare Trusts and self assessment

Guidance for trustees

If you have the responsibility for completing a return as a trustee, please take the time to read the following information and guidance.

A small review conducted within HMRC Trusts concluded that over 80% of returns completed for 'bare trusts' were found not to be for bare trusts. Two points arise from the review:

1. Some trustees are self-assessing incorrectly

A bare trust is one where the beneficial owner of the trust property is absolutely entitled to both the capital and income from that property. More information can be found in TSEM1030 – 1035 at:

www.hmrc.gov.uk/manuals/tsemmanual/TSEM1030.htm

If the trust is not bare, the trustees should self assess as accumulation/discretionary or interest in possession as appropriate.

2. Some bare trustees are self-assessing unnecessarily

Trustees of bare trusts do not need to self assess. The correct position is as set out below.

Beneficiaries

The beneficiary is taxable on the trust income and gains. Beneficiaries must include trust income and gains in any Tax Return they are required to complete or in any forms R40.

Trustees

The trustees are not required to make a tax return. The trustees may pay the tax due to HM Revenue & Customs on behalf of a beneficiary, but it is the beneficiary who is strictly chargeable to tax.

Trustees may complete the Trust and Estates Tax Return and account for any basic rate tax due on income. However, bare trustees cannot return capital gains or any gains on life insurance policies, life annuities or capital redemption policies; these continue to be the beneficiaries' responsibility only.

Hints & Tips

If you are taking out a grant in E&W or NI remember to attach a completed IHT421 to the IHT400.

Employee Benefit Trusts Legislating Extra-Statutory Concession A68

The August 2009 edition of the Inheritance Tax & Trusts Newsletter gave information about the proposed statutory replacement for the relief provided by ESC A68

The new legislation is contained in SI 2010 No.157 (The Enactment of Extra-Statutory Concessions Order 2010) which was made on 27 January 2010 and came into force on 1 April 2010. The new legislation inserts new sections 496A and 496B into ITA 2007 which apply in respect of discretionary payments made on or after 6 April 2010.

The Trusts, Settlements and Estates Manual (TSEM) has been updated. The guidance is at TSEM5650 – 5670.

www.hmrc.gov.uk/manuals/tsemmanual/TSEM5650.htm

2009-10 SA900 Changes to the 2009-10 Trust & Estate SA Return & supporting guidance notes

You may find it helpful to have this note highlighting the main changes to the 2009-10 SA Trust Return and the supporting guidance notes.



SA901L Notes – Lloyd's underwriters

Investors who hold shares in investment trusts should check the voucher provided to them by their trust as, from 1 September 2009, investment trusts have been able to make two types of distribution. In addition to dividend distributions, which should be returned as UK dividends, investment trusts may also make 'streamed' distributions of interest

received by the trust. These distributions are known as interest distributions - see page TLUN2 for details of how this type of income should be returned for boxes 1L.6 to 1L.11.

There are important changes to the way some types of foreign dividends are treated with effect from 22 April 2009 - see page TLUN4 for advice for customers who receive dividends from foreign companies that have substantial investments in interest-bearing assets.

SA904 Foreign income

If you had income from furnished holiday accommodation in a European Economic Area (EEA) country, enter the details on the SA903 (Trust and Estate UK Property page) and not on the SA904 - see page TFN9.

SA904 Notes - Foreign income

There are important changes to the way some types of foreign dividends are treated with effect from 22 April 2009 - see page TFN4 for advice for customers who receive dividends from foreign companies that have substantial investments in interest-bearing assets.

There are changes to the dividends from foreign companies that qualify for the UK tax credit with effect from 22 April 2009 - see page TFN5.

The notes relating to disposals of interests in offshore funds have been updated and contain details of where to find further information in HMRC guidance - see page TFN6.

SA906 Residence

Boxes 6.17 and 6.18 - these boxes have been removed. They relate to trustees' residence tests prior to 6 April 2007.

SA907 Charities

Charities are not automatically exempt from tax and must complete a return when asked to do so. However, the charitable tax exemptions available generally mean that a charity does not pay tax - but those exemptions have to be claimed. As well as the SA900 return, a charity must complete form SA907 to claim any tax exemption to which it is entitled.

SA923 Estate pension charges

Box 23.5A - this is a new box to accommodate refunds of tax contributions that may be received from overseas pension schemes that benefit from UK tax relief - see page EPCN2.

SA950 Tax Return Guide

Where a trust sells or transfers the right to income without disposing of the asset from which the income arises, new rules apply from 22 April 2009 to tax the consideration receivable as income - see pages 12 and 15 for further details.

Investors who hold shares in investment trusts should check the voucher provided to them by their trust as, from 1 September 2009, investment trusts have been able to make two types of distribution. In addition to dividend distributions, which should be returned as UK dividends, investment trusts may also make 'streamed' distributions of interest received by the trust. These distributions are known as interest distributions - see page 14 for details of how this type of income should be returned.

The notes relating to disposals of interests in offshore funds have been updated and contain details of where to find further information in HMRC guidance - see page 20.

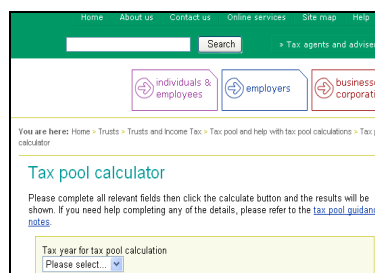
There are slight changes to the notes on trust management expenses, to reflect the outcome of the Peter Clay case, and to clarify the order of set-off and interaction with the standard rate band - see pages 31-32.

... and finally

Payment on account threshold. If your liability is under £1,000 in 2009-10 you will not have to make payments on account on 31 January and 31 July 2011 towards your 2010-11 liability, but will instead make a single payment on 31 January 2012.

Tax pool calculator

HMRC releases new version of tax pool calculator



The tax pool calculator was released in June 2009. The original intention was to have a release schedule that mirrored the release of the SA900 (trust and estate tax return). However, in response to feedback it was decided that from April 2010 the calculator would be released at the start of the tax year. So, as a result, 6 April 2010 saw the release of both the 2009-2010 and 2010-2011 tax pool calculators. This 'up front' release will enable users to take better

advantage of the in year aspect of the calculator. They can predict the result of beneficiary payments or use it to assist in completing a trust return for a trust that has ceased. And, as before, it can be used at the end of the tax year to enable a trustee to confirm or better understand an HMRC calculated amount. Certain types of trust or trust income are still excluded from the tax pool calculator and these are stated in the instructions for the customer. Access the HMRC taxpool guide at:

www.hmrc.gov.uk/trusts/income-tax/tax-pool.htm

Access the HMRC taxpool calculator at:

www.hmrc.gov.uk/tools/trusts/index.htm

National heritage property

Guidance updated

Capital Taxation and the National Heritage (also known as *IR67*) was last published by Inland Revenue (in succession to HM Treasury) in 1986. It contained information about conditional exemption from the capital taxes (Inheritance Tax, Capital Gains Tax and Estate Duty). It also included guidance on maintenance funds for national heritage property and the "acceptance in lieu scheme" – acceptance of works of art and other property in satisfaction of Inheritance Tax and Estate Duty.

Work on a revised text within HMRC and in consultation with representative bodies and other interested parties is almost complete. The revised text will be published in portable document format ("PDF").

If you would like to see the latest draft or if you have any questions in this context please email [Mick Downes](mailto:Mick.Downes@hmrc.gov.uk), our Technical Adviser on national heritage property, or telephone him on 0115 974 2482.

Hints & Tips

If you are paying Inheritance Tax on a death estate by cheque you must send the cheque to HMRC Accounts Office Cumbernauld using the payslip and envelope provided. If you want to send it by DX the DX address is shown on the back of the payslip. Sending payments to HMRC Inheritance Tax offices in Nottingham, Edinburgh or Belfast causes delays.

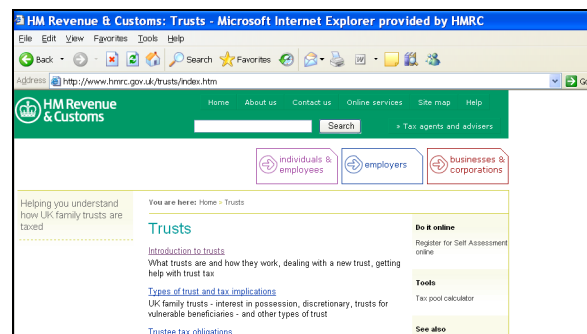
More information

For more information on Trusts or Inheritance Tax visit our website at:

www.hmrc.gov.uk/inheritancetax/

and

www.hmrc.gov.uk/trusts/index.htm



For information on paying HMRC:

www.hmrc.gov.uk/payinghmrc/index.htm

For the latest news from HMRC:

www.hmrc.gov.uk/news/index.htm



Probate applications, providing copies of wills - Guidance for solicitors firms and practitioners

As you may be aware, with effect from 1 January 2009 two copies of the sworn will (and any codicils if applicable) must be sent to the Probate Service with any probate application.

Please note the following instructions:

1. The copies must be A4 size and good quality.
2. The copies should be made from the original will after the oath has been sworn.
3. The copies should not be stapled.
4. You do not need to copy any additional covers or instructions as to how to sign a will etc.
5. The copies must be clear and legible. You should ensure that any faint typing or blue ink on the original will is clear on the copies. You may have to adjust the contrast on your photocopier to ensure that all the text is legible.
6. The top and left hand margins of the copies should be left clear so that the grant can be attached.
7. If it is necessary to take the will apart in order to copy it please enclose a covering letter with the application informing the registry that this was done and that the will has been restored to the same plight and condition that it was before it was copied and nothing of a testamentary nature was further attached or detached.

HM Courts Service will be able to deal with your application more quickly, if you follow these instructions.

If you need further clarification please contact your local Probate Registry.

The following article which originally appeared in the December issue of the Inheritance Tax and Trusts newsletter has been amended.

Probate guide

The issues highlighted below are some of the common errors made on applications; the list will be a useful reminder in ensuring that you get the application right first time.

Have I included all the paperwork?

- oath and original will and codicil(s)
- original renunciations, Power of Attorney (if needed)
- IHT421, IHT 205
- Fee.....

Have I got the personal details right?

- full names (including middle names and any alias)
- spelling
- addresses
- date of birth
- date of death...

Have I got the correct clearing and title?

Have I provided two A4 clear plain copies of the will?

Are there holes, tears or marks on the will?

- Do I need to certify that nothing of a testamentary nature was attached to the will?

Are the tax details correct?

- the correct Inheritance Tax form has been completed and signed
- gross and net figures as on Inheritance Tax form
- is a HM Revenue and Customs Inheritance Tax account required? If not include the statement on oath - "this is not a case in which a HM Revenue and Customs Inheritance Tax account is required to be delivered."

The contents of this newsletter are not binding on HMRC and reflect news & views current at the time of writing.