TRIDENT TAX

Our advice is defined by our knowledge and refined by our experience.

Frequently Asked Questions

August 2024

FAQ for Trustees and Corporate Service Providers

Identifying Trusts Impacted by the Upcoming Tax Legislation Changes (Effective 6 April 2025)

This document is designed to assist Trustees and Corporate Service Providers (CSPs) in identifying trusts under their administration that may be impacted by the upcoming changes in tax legislation, effective from 6 April 2025, to end the protected trust regime, modify or end the excluded property trust regime in certain cases and abolish the remittance basis of taxation for non-UK domiciles.

It also provides guidance on common questions, planning opportunities, and the importance of seeking tax advice. For a more detailed approach, please refer to our comprehensive guide: **"Guide for Trustees and Corporate Service Providers: Preparing for the 2025 Legislative Changes."**

Which trusts are likely to be impacted by the new legislation?

The upcoming tax changes will primarily affect trusts where:

- The settlor or beneficiaries have UK connections (e.g., UK residency or domicile).
- There are mixed funds, particularly where capital and income have been pooled over time.

How can I identify if a trust I administer is at risk under the new rules?

Review Settlor and Beneficiary Domicile Status	Begin by determining the domicile status of the settlor and key beneficiaries. Changes in legislation may affect non-domiciled individuals differently.
Analyse Historical Capital and Income Pools	Mixed funds and the pooling of capital and income may lead to complex tax issues under the new rules. Careful analysis is essential.

What should I do if I identify an impacted trust?

If you identify a trust that may be affected:

- **Seek Professional Tax Advice** - It is crucial to engage with tax advisors to fully understand the implications of the new legislation on the specific trust, its settlor and its beneficiaries.
- **Refer to Our Guide** - Our "Guide for Trustees and Corporate Service Providers: Preparing for the 2025 Legislative Changes" outlines the steps for reviewing, planning, and restructuring trusts considering the upcoming changes.
- **Consider Restructuring Options** - Depending on the trust's structure, there may be opportunities to restructure to mitigate tax liabilities. This might include excluding the settlor (if feasible), establishing new trusts, or altering investment strategies.

What are the planning opportunities available?

There are a number of potential planning opportunities that can be explored, depending on specific client circumstances and in certain cases, the final legislation that makes the relevant changes to the protected trust regime and the remittance basis of taxation for non-UK domiciles.

A few examples are outlined below, but there are many other opportunities that can be explored as each case needs to be analysed individually.

Example 1	**Income and gains arising in the structure from 6 April 2025 onwards** In the case of a settlor-interested trust, it may be possible to restructure financial portfolios to prevent a previously non-UK domiciled settlor being taxed on income and gains in the structure as they arise. This can be achieved through the use of single premium offshore life assurance bonds.
Example 2	**Income and gains arising in the structure from 6 April 2025 onwards** Even if the settlor is excluded, they will be taxed on capital gains of the trust from 6 April 2025 onwards. If the settlor only intends to remain in the UK for a limited number of years it may be possible to mitigate or eliminate the exposure to capital gains tax by the use of non-reporting funds as an investment class.
Example 3	**Inheritance tax exposure** If the settlor is prepared to be excluded from the trust, this will prevent the trust assets being exposed to a 40% tax charge on the death of the settlor. Depending on the final form of the legislation, it may also be possible to prevent the trust becoming a relevant property trust and suffering 6% inheritance tax charges every 10 years.
Example 4	**Pre-April 2017 trust income and gains** A trust has historically pooled capital and income, leading to a mixed fund. Remittance of the settlor's income to the UK can result in the income being taxed at rates of up to 45% and capital gains being taxed at rates up to 32%. Depending on how the transitional measure is drafted in legislation, the new Temporary Repatriation Facility may create an opportunity to remit "old" income and gains of the settlor at a rate of 12%.
Example 5	**The structure was not established as part of a plan to move to the UK** In the case of a settlor-interested trust, it may be possible to restructure financial portfolios to prevent a previously non-UK domiciled settlor being taxed on income and gains in the structure as they arise. This can be achieved through the use of single premium offshore life assurance bonds.

What are the key deadlines and timeline for acting?

- **Immediate Action (Q3 2024)** - Begin reviewing all trusts to identify those impacted by the legislative changes and identify potential mitigation strategies.
- **Autumn 2024** - After the Autumn Budget on 30 October, confirm the exact legislative changes and begin implementation of mitigation strategies that are confirmed to be effective in the context of the new legislation.
- **Early 2025 (Q1):** Complete implementation of any necessary restructuring or planning strategies to ensure compliance by 6 April 2025.
- **Ongoing:** Regularly monitor and review the trust structures post-implementation to ensure continued compliance and effectiveness.

What challenges might I face during this process?

Complexity of Multiple Investment Portfolios	Trustees managing multiple portfolios will need to carefully consider base costs across all assets to ensure accurate tax reporting.
Cross-Border Issues	Trusts with assets or beneficiaries in multiple jurisdictions may face additional complexity to compile all information required.
Domicile Status Clarifications	Determining and proving the domicile status of settlors can be legally and practically challenging. Embarking on a restructuring exercise without assurance the settlor has a strong pre-2025 claim to non-UK domicile status could result in unexpected tax liabilities.
Lead times for implementation	All three factors above can cause delays to the point at which restructuring can be implemented. Preparing sufficiently far in advance to allow time for implementation by 5 April 2025 will be key to success or failure.

How can Trident Tax assist in this process?

Trident Tax is here to support you by providing:

- **Expert Tax Advice:** Our team can help you navigate the complexities of the new legislation and its impact on your trust structures.
- **Tailored Planning Solutions:** We offer bespoke planning strategies that align with the specific needs of your trusts and beneficiaries.
- **Ongoing Support:** Beyond the initial review and restructuring, we provide support throughout implementation and ongoing support to ensure your structures remain compliant and effective under the new rules.

Where can I find more detailed information?

For a detailed step-by-step approach to tackling the upcoming legislative changes, refer to our comprehensive guide: "Guide for Trustees and Corporate Service Providers: Preparing for the 2025 Legislative Changes."

Additionally, our Insight Article offers an in-depth analysis of the proposed changes and their implications.

Summary

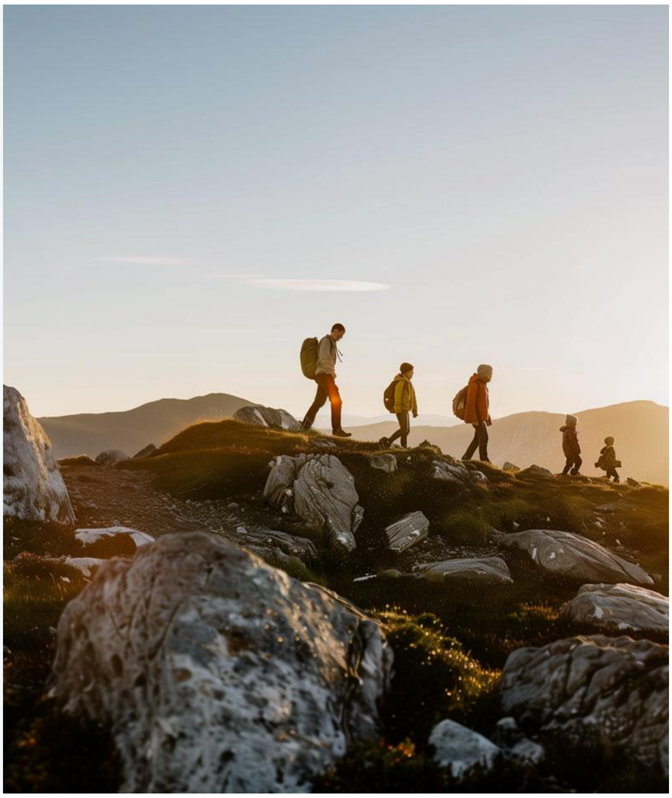
Preparing for the 2025 legislative changes requires timely and thorough action. By identifying impacted trusts early and seeking appropriate advice, Trustees and CSPs can ensure compliance and optimise tax outcomes for their clients.

For more detailed guidance, please refer to our accompanying documents and reach out to our team for personalised support.

Prepare Your Trusts for the 2025 Legislative Changes with Trident Tax's Expertise

At Trident Tax, we specialise in guiding Trustees and Corporate Service Providers through complex tax legislation changes, such as those coming into effect on 6 April 2025.

These changes could significantly impact the protected trust regime, excluded property trusts, and the remittance basis of taxation for non-UK domiciles.



TRIDENT TAX

Protect and Optimise Your Trusts with Expert Guidance and Strategic Insight from Trident Tax.

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This FAQ document serves as a practical resource to help Trustees and Corporate Service Providers navigate the upcoming tax changes, with a focus on early identification, planning opportunities, and seeking professional advice. It is provided for informational purposes only and does not constitute financial or tax advice. It does not replace the need for professional tax advice specific to your circumstances in the UK, and the information is accurate as of the date of this publication.

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