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The Money Laundering and Terrorist Financing (Amendment and Miscellaneous Provision) Regulations 2025

Comments by the Chartered Institute of Taxation

1. Executive Summary

1.1. The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 20,000 members, and extensive volunteer network, in providing our response.

1.2. The CIOT have no comments to make in relation to the legislation other than in relation to the Trust Registration Service (TRS).

1.3. Under the Trust Registration Service, the legitimate interest requirement is important in balancing transparency with data protection; a legitimate interest requirement to access information about trusts should apply in all cases, including where the trustees have a controlling interest in a third country entity.

1.4. Whilst the principle of a general de minimis exclusion (new Regulation 23A) is a positive improvement to the TRS regime, we are concerned that the requirement for the cumulative value of property in the trust not to have exceeded £10,000 in value is too complicated to monitor in practice; further, the condition dis-applying the de minimis exclusion where the settlor has previously created any other excluded trust is unnecessarily restrictive and is unworkable in practical terms.

1.5. An opportunity has been missed, not to include a simpler de minimis exclusion to cover the small amount of cash held by the personal representatives of a deceased person's estate where the administration has run for more than 2 years. Often the only issue holding up the completion of the administration is HMRC confirming the final income tax bill.

2. About us

2.1. The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.

2.2. The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

2.3. The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.

2.4. Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

3. Introduction

3.1. The draft Money Laundering and Terrorist Financing (Amendment and Miscellaneous Provision) Regulations 2025 were issued for consultation on 2 September 2025[1]. The targeted amendments are to close regulatory loopholes, address proportionality concerns, and account for evolving risks in relation to money laundering and terrorist financing.

3.2. Sections 4 to 6 cover Trust Registration Service aspects.

3.3. Our stated objective for the tax systems include:

- A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
- Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
- Greater certainty, so businesses and individuals can plan ahead with confidence.
- A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
- Responsive and competent tax administration, with a minimum of bureaucracy.

4. Trusts with no UK-resident trustee

4.1. Paragraphs 23, 24, 25 and 26 in the draft SI expand the scope of registration under the Trust Registration Service to include all non-UK trusts that hold an interest in UK land and property acquired before 6 October 2020 but only where the trust retains an interest in UK property at the date the amendment to the MLRs comes into force.

4.2. We have not identified any unintended consequences. The challenge for HMRC will be how to communicate to overseas trustees the need to register pre-6 October 2020 acquisitions.

[1] https://www.gov.uk/government/publications/proposed-amendments-to-the-money-laundering-regulations-draft-si-and-policy-note

4.3. Why do HMRC/the government want to collect data on properties that are disposed of between the regulations coming into force and the registration deadline? It seems superfluous to have to register properties that have been sold before the deadline for registering their ownership, only for the trustees to then immediately deregister. That said, we recognise that there are other circumstances when trusts that have been created and wound-up before the registration deadline still require registration.

4.4. Regulation 45ZB includes a requirement to have a legitimate interest in the information HMRC holds about trusts to be able to access information about trusts. However, there is no requirement to have a legitimate interest requirement in information about a trust if the trustees have a controlling interest in a third country entity. The CIOT consider that the legitimate interest requirement is an important protection in balancing transparency with data protection and consider that a legitimate interest requirement to access information about trusts should apply in all cases.

5. Extending the categories of Sch 3A excluded trusts

5.1. We welcome the clarity that the amendments bring so that there is a common '2 years from date of death' rule for trusts created by Deed of Variation (new Reg 8A) and for when the trustees of an existing trust change following the death of one of them (new Regs 9A and 9B).

5.2. Whilst the principle of a general de minimis exclusion (new Reg 23A) is a positive step, we believe that, as drafted, there are a number of difficulties.

5.3. Condition (2)(c) is 'has not held property with a cumulative total value exceeding £10,000 since the date on which it was created'. It is too complicated to require trustees (and HMRC in its regulatory function) to monitor a cumulative total; it would be more practicable and simpler to frame the restriction in terms of the trust not having assets worth more than £10,000 at any point since it was created.

5.4. Draft Reg 23A(3) reads: *This paragraph does not apply to a trust which is not the first UK express trust that is an excluded trust under this Schedule created by the settlor during the lifetime of that settlor*. That, in our view, is too restrictive. The creation of any other excluded trust at any time in the settlor's lifetime means that something as mundane as a co-ownership trust, insurance trust or commercial trust within one of the other Schedule 3A exclusions causes the Reg 23A exclusion to be unavailable. In practical terms, how are the trustees of a small trust to ascertain whether the settlor has ever created another excluded trust when, by very definition it will not be registered? Is HMRC to expend scarce resources on such monitoring? It would, we think, be better to remove this condition.

5.5. If a condition of this nature is thought to be both proportionate and necessary, it should be as narrow as possible. Thus, only trusts that are currently in existence should be considered – not those that have already been wound-up. We doubt that such relaxation 'would be leveraged to obscure asset ownership'; without it, it seems difficult to see how the government's aim of 'reducing the administrative burden for small, low risk trusts and HMRC' is to be achieved'.

5.6. If the concern is to prevent lots of pilot trusts for the same/slight variations on family members being set up, that might be addressed in a number of ways: perhaps a limitation on the restriction could be based on the exclusion being available only to one trust set up by a given settlor, during lifetime which is still in existence, from which a given individual can benefit. Or perhaps a rule that says that the value in all trusts created by a given settlor from which an individual could benefit (either as a named beneficiary or part of a class) is added together to see if the £10,000 value limit is breached.

6. Small bare trusts of a deceased's residuary estate

6.1. We feel that an opportunity has been missed, not to include a simpler de minimis exclusion for residuary estates that run for more than 2 years. As discussed during the Consultation, the Anti-Money Laundering (AML) risk with the residue of an estate that runs over 2 years is minimal, thus justifying a specific, less restrictive exclusion.

6.2. The problem is this. A bare trust arises in favour of the residuary beneficiaries once the residue of a deceased's estate has been ascertained. This, according to https://www.gov.uk/hmrc-internal-manuals/capital-gains-manual/cg30800, will be after the personal representatives (PRs) have identified all the assets and liabilities of the estate and a clearance certificate for IHT has been issued. The bare trust will hold nothing more than some cash (typically, in a solicitor's client account) sufficient to pay the final income tax bill due for the administration period and final costs; there is often a delay in excess of 3 months in HMRC supplying the personal representatives with the information necessary to make the final income tax payment under the informal procedure (see https://www.gov.uk/probate-estate/reporting-the-estate).

6.3. Say the PRs had applied under the informal income tax procedure 22 months after death, but at the 24 month point had still not heard from HMRC; condition (2)(c) in new paragraph 23A, if construed by reference to the trust arising for the administration generally, would prevent the proposed 'small trust exclusion' applying where the estate was greater than £10,000. In such circumstances the PRs would be obliged to register in respect of this small amount. Such a small bare trust presents an even smaller AML-risk than the initial trust for the administration of the estate which is excluded by Sch 3A, paragraph 7 of the 2017 Regulations for up to 2 years from the date of death.

6.4. In this situation, we cannot see that new reg 23A(3) helps. It may be read in two ways.

6.5. After grappling with the unhelpful double negatives, by removing them the sense ends up as, 'This paragraph applies to a trust which is the first UK express trust that is an excluded trust under this Schedule created by the settlor during the lifetime of that settlor'. By this reading, no trust created after the settlor's death can benefit from the exclusion.

6.6. An alternative reading would be that sub-para (3) operates only to prevent there being more than one lifetime small trust; but it does not prevent the exclusion applying to another small trust created on death. This could include a small residual trust at the end of the period of administration. Which reading is intended?

6.7. The very fact that the wording of the provisions creates such uncertainty indicates the need for it to be amended for the sake of clarity, generally, not just for the position of the residual bare trust.

6.8. Taking a different approach, we suggest that the new exclusion under paragraph 23A should be expanded to cover the residual trust situation, to save the unnecessary administrative burden and cost to the PRs of registration once the initial 2-year period has expired. Possible wording, to be inserted after sub-paragraph (2), might be something along the lines of:

(2A) Sub-paragraphs (b) and (c) of paragraph (2), do not apply where -

(a) the personal representatives of a deceased person hold cash not exceeding £15,000[2] in value on trust absolutely for the residuary beneficiaries of the estate as the result of the residue being ascertained, and

(b) the date when the residue was ascertained is within 2 years of the death

[2] We have chosen £15,000 to include the £10,000 maximum tax due under the informal arrangements and a £5,000 buffer for the PR's costs.

6.9. Alternatively, Reg 23A(1) could introduce 2 sets of conditions: the general exclusion in the current draft sub-paragraph (2) and a separate sub-paragraph (2A) for these small bare trusts of ascertained residue, the criteria being (a) and (b) as suggested above. This might be clearer and would (in the circumstances) align with the current 23A model as there is no land, no appreciable worth assets, the asset total is relatively small, and interest from £15,000k would be under £5,000.

6.10. For the avoidance of doubt, the regulation should make clear when this bare trust arises.

7. Acknowledgement of submission

7.1. We would be grateful if you could acknowledge safe receipt of this submission and ensure that the Chartered Institute of Taxation is included in the List of Respondents when any outcome of the consultation is published.

The Chartered Institute of Taxation

30 September 2025