Transposition of the Fifth Money Laundering Directive: update

Inheritance Tax and trusts

01 February 2020

In January 2020, most of the Fifth Money Laundering Directive was implemented – apart from the provisions for the expansion of the Trust Register, where further consultation is planned.

Just before Christmas, HMRC provided us with an update on the Fifth Money Laundering Directive (5MLD) and the latest on the Trust Register. HMRC's update confirmed that, since the UK would be part of the EU on 10 January 2020 – on the assumption that the Withdrawal Agreement is passed, we are expecting a transition period until December 2020 – the provisions in 5MLD would need to be adopted. Accordingly, a statutory instrument was laid in late December and The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 came into force on 10 January 2020.

However, excluded from this instrument was any mention of the Trust Register. HMRC confirmed in December that they will run a more detailed technical consultation in early 2020 and this consultation will include additional information on the proposals for the type of express trusts that will be required to register, data collection and sharing, and penalties.
Given that this article was written in very early January, it may be that by the time of publication the consultation is open. The ATT and CIOT will both be contributing to this consultation as soon as it is available and member feedback direct to us below is very welcome.

In the meantime, the CIOT has already written to the Economic Secretary to the Treasury to stress that to achieve a regulatory regime that ensures effective compliance, the Directive should be implemented in a targeted and proportionate manner in the forthcoming Trust Registration regulations.

The CIOT’s letter can be found at: https://tinyurl.com/yf4xf9u4.

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