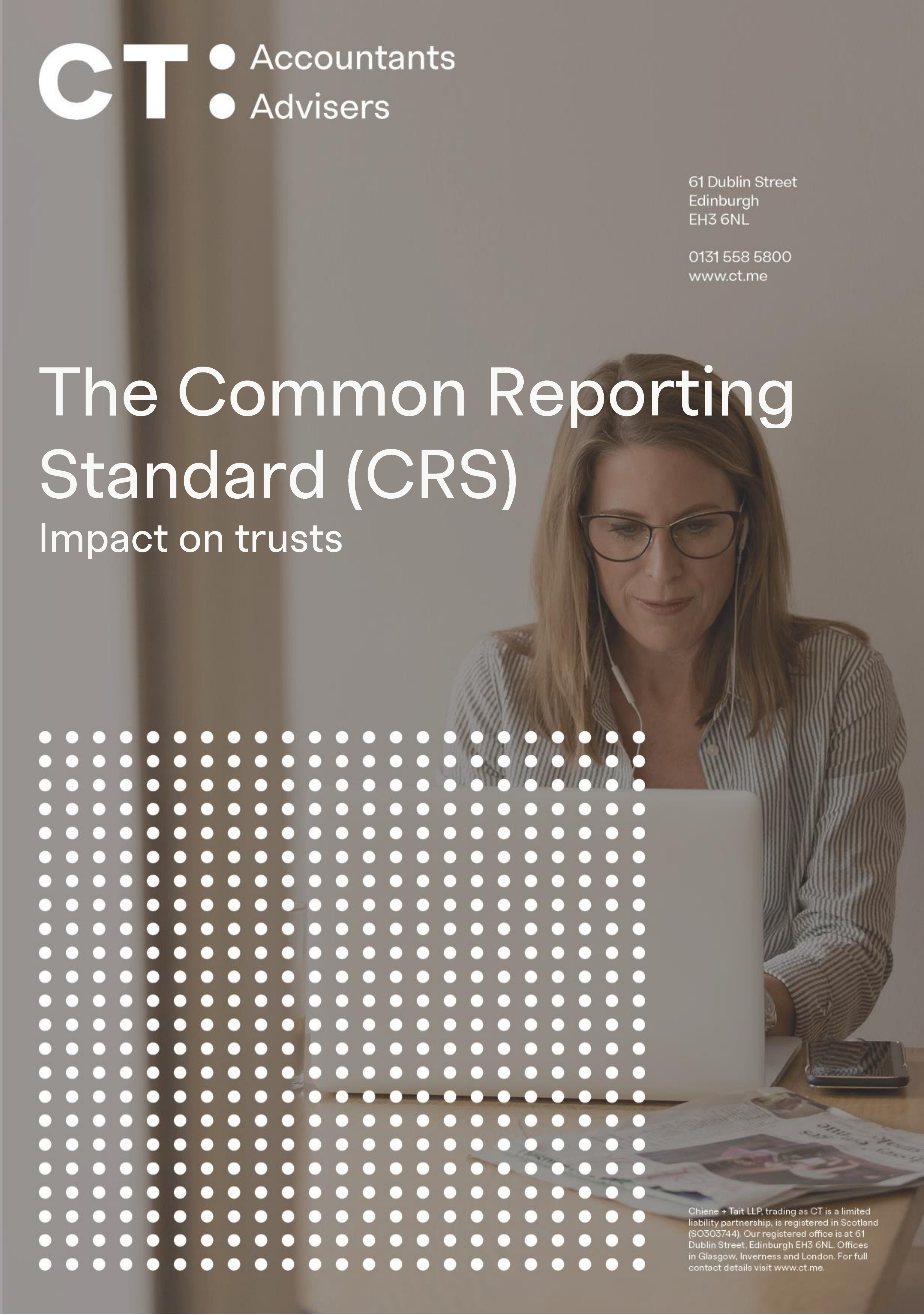

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The Common Reporting Standard (CRS)

Impact on trusts

The Common Reporting Standard (CRS): Impact on trusts

What is CRS?

CRS is an international regime to improve tax transparency by facilitating the exchange of information between participating jurisdictions. The CRS regulations are onerous, and submissions for the previous calendar year must be made by the following 31 May.

Who falls within CRS?

Although aimed primarily at such institutions as banks and investment houses, CRS can also apply to many other UK entities, including trusts.

There are four types of 'financial institution' for the purposes of CRS. However, only two are likely to bring in trusts, which may not ordinarily regard themselves as being 'financial institutions':

1. Custodial Institution
   This will include entities where at least 20% of their income is attributable to the holding of financial assets and providing related financial services for others. Trusts may fall within this category of 'financial institution', where they hold shares in trust for individuals. This may be the case in Employee Benefit Trusts, where shares are held on behalf of employees after they have been granted.

2. Investment Entity
   Investment entities are either:

   - Activity-Based Investment Entities
     Entities who primarily conduct, as a business, investing, administering, or managing funds, for and on behalf of a customer.

   - Managed Investment Entities
     An entity will be a 'managed investment entity' where it meets both of the following tests:

- Its financial assets are managed, in whole or part, by an investment manager (or other financial institution) who has discretionary management over some or all of the assets; and
- At least 50% of its total income derives from financial assets.

This test is applied to a cumulative three-year period, ending 31 December in the year preceding the year in which its status as a 'financial institution' is being determined.

'Financial assets', as discussed above, include shares and securities, commodities, swaps, insurance or annuity contracts, and interests in partnerships. Financial assets do not include direct interests in real property or cash.

Non Reporting Financial Institutions

Certain 'financial institutions' are excluded from the CRS requirements if the specified conditions are met. These exemptions are fairly limited, and include certain international organisations, retirement funds, trustee documented trusts, and collective investment vehicles, among others.

What do I do if my trust is a Reporting Financial Institution?

There are five types of Financial Accounts under CRS. These are:

1. Depository Accounts
   These accounts include:
   - Commercial current, savings, thrift, or time accounts; and
   - Any accounts evidenced by a certificate of deposit, investment certificates, thrift certificate or certificate of indebtedness.

2. Custodial Accounts
   These are accounts that are held for the benefit of another person that holds one or more financial assets.

3. Equity and Debt Interests
   An equity interest in a trust is any interest held by a person who is treated as a settlor or beneficiary of any or part of the trust. This would also include any individual who exercises ultimate effective control over the trust. Debt interests include all loans made to trusts and other forms of indebtedness.

4. Cash Value Insurance Contracts

5. Annuity Contracts

If your trust is a 'financial institution' and has one or more Financial Accounts, you will then need to identify Reportable Accounts. Reportable Accounts are any of the above accounts which are held by one or more Reportable Persons.

What are Reportable Persons?

Reportable Persons are any non-UK resident individuals or entities that are resident in a Reportable Jurisdiction. A full list of Reportable Jurisdictions can be found at the following link: https://www.gov.uk/hmrc-internal-manuals/international-exchange-of-information/ieim402340.
Please note, this list will be updated every year as more countries impose CRS regulations.
Where the Reportable Person is tax resident in a reportable jurisdiction then the account is a Reportable Account.

What happens if I have Reportable Accounts?

If your trust has Reportable Accounts, you must perform specific due diligence procedures on each Reportable Person and disclose certain information to HMRC. This due diligence information requires to be maintained for six years, irrespective of whether the account is reportable for that period. Specified information regarding these Reportable Accounts must then be reported to HMRC for the calendar year to 31 December, by the following 31 May. The trust is also required to notify the Reportable Persons in advance of this, and there are deadlines for this notification.

If the trust has no Reportable Persons or no Financial Accounts, then there is no report required to HMRC; nil returns are not required.

Need more help?

If you want to know more about CRS and how it could impact your trust, please get in touch with our CRS team at crs@ct.me

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