

Register trusts, or expect abuse

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Nichola Ross Martin has written one of her usual articles for [AccountingWEB](#) in which the logic is very hard to follow. This one is about trusts. She is commenting on data published by the Revenue on a survey of trusts they undertook to assist them in forming an opinion on the revision of trust tax law. In her report she says, based on the HMRC report, that:

There were problems contacting settlors within the survey, only some 1200 records out of 6000+ could be matched up to telephone numbers, and in the end only 246 records were usable. Even allowing for the fact that settlors have a tendency to die, HMRC seemed to hold insufficient and inaccurate trust data to allow a decent sample.

She also notes:

In fact the response was so bad that GfK Business, who completed the research, say that the sample surveyed may not be fully representative of the total trust population.

This Nichola seems to latch onto with glee, as if it invalidates the results. Those results suggested (she reports) that:

"The main motivation for setting up a trust appears to be related to control of assets, rather than tax planning as found in both the in-depth interviews and the survey of trustees. While tax planning is important for some, it is usually cited second, and in relation to organising a person's affairs most efficiently, rather than as the main reason for setting up a trust."

She argues as a result that reform to trust tax law was not necessary. That is not a tenable conclusion. There are reasonable conclusions to draw but they are:

- 1) That there should be a register of trusts in the UK, just as there is a register of companies. Unregistered trusts should not be considered to be effective. That way the data problem is overcome;
- 2) Those who answered the survey done on behalf of a tax authority felt they had

nothing to fear from the questions raised: all the rest did and did not answer.

That leads to the obvious, and wholly tenable conclusion that tax is a major reason for creating trusts onshore and offshore. Onshore its a transparent motive: offshore the effect is achieved by the type of [sham trusts](#) that Jersey deliberately promotes and which are intended to be a blatant nominee mechanism for those who claim they have gifted assets into trust and who actually wish to retain full control of them. This action is, like so many of the practices promoted offshore, fraudulent of course.

But either way the result is that tax is a motive and the answer has to be clear. If trusts are necessary (and they are for the protection of children, the disabled and infirm and maybe for charitable purposes - although there a better mechanisms might be possible) then that's fine. Allow them. And register them. But provide no tax advantages at all. They must be taxed transparently, and if that's not possible at the highest marginal rates of tax to ensure justice is done. That would end the tax debate, and rightly so.