

TRUST MANAGEMENT EXPENSES (TMEs)

This Help Sheet will help:

- trustees of accumulation or discretionary trusts fill in Section 13 of the Trust and Estate Tax Return. See Part 1
- trustees of interest in possession (liferent) trusts establish the correct trust management expenses to take into account before advising beneficiaries of their net entitlement. See Part 2
- trustees of mixed trusts. You will need to look at all three parts.

Trustees should use this guidance to make returns or advise beneficiaries for the tax year 2008–09 and future years.

BACKGROUND - WHAT ARE TRUST MANAGEMENT EXPENSES (TMEs)?

In managing a trust the trustees may incur expenses in the course of exercising their duties and powers. These expenses are quite separate from any expenses trustees may incur in, for example, carrying on a trade or rental business, which are deductible in arriving at the amount of profits from these sources.

TMEs are not the same as payments made to or on behalf of beneficiaries (distributions).

TMEs may be referred to as 'capital' or 'income' expenses, depending on which fund they are to be paid out of. For tax purposes, only income expenses are allowed, that is, expenses relating solely to income. Expenses that are incurred for the benefit of the capital fund or for the benefit of both the income and capital funds are not allowable as TMEs.

Part 1 - accumulation or discretionary trusts

TMEs are taken into account only in calculating how much of trustees' income is chargeable at the special trust rates. The calculation method is set out in the Trust and Estate Tax Return guide in the notes to Question 13.

Only expenses that are properly chargeable to income in general trust law are allowable. What the trust deed says about expenses is not taken into account. For specific items see the table on pages 2 to 4.

Expenses are taken into account in the tax year in which they are incurred.

Part 2 - interest in possession (liferent) trusts

TMEs are taken into account only in arriving at the income of the income beneficiary and do not reduce the trustees' taxable income. The calculation method is set out in the Trust and Estate Tax Return guide in the notes to Question 13.

Where the trust deed specifies that a particular expense is chargeable to income, it is allowable. Otherwise, general trust law applies to that expense. For specific items see the table on pages 2 to 4.

Expenses are taken into account in the tax year in which they are incurred.

Part 3 - mixed trusts

Trustees should make a just and reasonable apportionment of TMEs between income of the trustees and income of the beneficiaries who are entitled to it. Trustees should refer to the rules for both types of trust as set out in Parts 1 and 2 here and in the Trust and Estate Tax Return guide in the notes to Question 13.

TRUST MANAGEMENT EXPENSES TABLE: WHAT IS ALLOWABLE/NOT ALLOWABLE

Item	Allowable	Not allowable
Accountancy	<p>Costs of accounting for the trust's income, on the basis of a just and reasonable apportionment, best made by the person who prepares the accounts.</p> <p>Costs of preparing a Tax Return: those that relate to income, apportioned on a just and reasonable basis, most easily done by excluding the costs of preparing the Capital Gains Pages of the Return.</p> <p>Costs of obtaining tax advice only where it relates directly to the preparation of income for Tax Returns.</p>	<p>Costs of accounting for the trust's capital.</p> <p>Costs of preparing a Tax Return: those that relate to capital.</p> <p>General costs of obtaining tax advice, including costs that relate to Capital Gains Tax or Inheritance Tax.</p> <p>Costs already allowed against trading or rental income.</p>
Audit	<p>Audit undertaken because of S22(4) Trustee Act 1925: where trustees exercise their discretion, expenses they decide to charge to income; where they do not, only the expenses associated with auditing income.</p> <p>Otherwise, the costs of auditing the trust's income, on the basis of a just and reasonable apportionment, best made by the person who carries out the audit.</p>	<p>Audit undertaken because of S22(4) Trustee Act 1925: where trustees exercise their discretion, expenses they decide to charge to capital; where they do not, the expenses associated with auditing capital.</p> <p>Otherwise, the costs of auditing the trust's capital.</p>
Bank charges and interest	<p>Some bank interest is allowable, depending on the actual use of the funds advanced by the bank to the trustees - see 'interest'.</p>	<p>Charges to secure a facility that is for the better administration of the trust as a whole, for example charges on a current account, whether or not it incidentally bears interest, or to keep open an overdraft facility.</p>
Depreciation	<p>None.</p>	<p>All.</p>
Distributing income - cost of	<p>None.</p>	<p>All, including incidental costs such as posting a cheque to a beneficiary, stationery and phone costs.</p>
Insurance or assurance premiums	<p>Only where:</p> <ul style="list-style-type: none"> • the premiums relate to buildings insurance, and • the lease contains an obligation to insure the building, and • the trustees are lessees of the building, and <ul style="list-style-type: none"> – either that leasehold building is occupied by beneficiaries under the terms of the trust, – or the building is generating rental income for the trust, <p>and, in either case, neither the beneficiaries nor any tenants (as the case may be) are under a legal obligation to meet the insurance premium.</p>	<p>Premiums for insuring trust assets already allowed as a deduction against trading or rental income of the trustees.</p> <p>Insurance on trust assets other than buildings.</p> <p>Premiums payable in respect of trust buildings used or occupied by a beneficiary where the terms of the beneficiary's use or occupation provide that they must meet the insurance premium.</p> <p>Annual premiums on assurance policies.</p>

TRUST MANAGEMENT EXPENSES TABLE: WHAT IS ALLOWABLE/NOT ALLOWABLE

Item	Allowable	Not allowable
Interest	<p>Interest on a loan taken out in order to purchase an income-bearing asset for the trust, such as shares.</p> <p>Interest on a loan taken out or overdraft arranged by trustees for acquiring property that is occupied by a beneficiary.</p>	<p>Interest on a loan taken out or overdraft arranged to pay for general administration, or to buy a non-income generating asset for the trust.</p> <p>Interest incurred in the course of a trade or rental business and already allowed as a deduction against trading or rental income.</p>
Interest on unpaid/overdue tax, etc.	<p>Interest on loans taken out to pay Inheritance Tax.</p> <p>Interest:</p> <ul style="list-style-type: none"> on unpaid Inheritance Tax payable under Section 86 TMA 1970 <p>except where the delay is caused by the neglect of the trustees.</p>	<p>Tax penalties.</p> <p>Surcharges under S59C TMA 1970.</p> <p>Interest on penalties and surcharges.</p>
Investment advice	None.	All, including the costs incidental to the investment or change of investment of trust funds and the costs of obtaining investment advice.
Legal costs	Only costs that relate exclusively to the interest in possession beneficiary (liferenter).	<p>Otherwise all, including:</p> <ul style="list-style-type: none"> the costs of the appointment of new trustees the costs of obtaining legal advice, and of taking the direction of the court the costs of an administration action the costs of paying money into court under the Trustee Act the costs of bringing or defending actions against third parties for the protection of the estate (for example, against lessees for breach of their covenants to repair), and the like.
Personal expenses of beneficiary	None.	All, including items that are the occupier's responsibility, as opposed to the owner's (trustee's) responsibility, for example utility bills and Council Tax (including business rates, if appropriate).

TRUST MANAGEMENT EXPENSES TABLE: WHAT IS ALLOWABLE/NOT ALLOWABLE

Item	Allowable	Not allowable
Property costs	The costs of: <ul style="list-style-type: none"> • maintenance of a freehold property • rent or maintenance costs of a leasehold property, paid by trustees pursuant to the terms of a lease of which they are the lessees where: <ul style="list-style-type: none"> • the property is properly held by the trust for the occupation of a beneficiary, and • is actually occupied by a beneficiary, or the only reason it is not is because the property is in a state of disrepair that makes it uninhabitable, and • the beneficiary is not occupying on terms that he or she meets those expenses personally. 	Otherwise not allowable.
Reimbursement of expenses to trustees	Allowable or not according to what costs the reimbursement is for - see specific categories.	Allowable or not according to what costs the reimbursement is for - see specific categories.
Running costs	None.	All, including maintaining an office, salaries of personnel, expenses of accommodation, cleaning, and maintenance of equipment and premises.
Travel and subsistence costs	Exceptionally, costs associated solely with securing the trust's income.	In the vast majority of cases travel and subsistence expenses incurred by trustees are not allowable.
Trustees' fees	None.	All.

These notes are for guidance only, and reflect the position at the time of writing. They do not affect any rights of appeal.