

TAX

# Sars announces significant changes to the treatment of trusts

PHIA VAN DER SPUY

TAX SEASON officially kicked off this week, and the South African Revenue Service (Sars) recently issued a communication on all the form and system changes applicable to trusts from June 23, which trustees and trust service providers need to take note of. Filing period for non-provisional taxpayer trusts closes on October 24, 2023.

## Managing tax compliance matters

Trustees were reminded that trusts are included in the definition of a "person" in terms of the Income Tax Act, and as such, the representative taxpayer (trustee/s) has a responsibility to register all trusts for income tax purposes. Even "dormant trusts" have to be registered with Sars. Trustees will be held liable for non-registration.

Trustees are reminded that the annual notice issued by the Commissioner requires of all trusts to submit a trust tax return during the trust return filing period.

It stresses that it is, therefore, imperative that all representative taxpayers of trusts (trustees) ensure compliance in this regard.

It is clear that they look to the board of trustees to comply. Therefore, reliance by lay-person trustees on their accountants to ensure their legal obligations to Sars are met will not be excused.

Some important changes to the Income Tax Return for Trusts (ITR12T) were also announced, which include a simplified return for passive trusts – a less cumbersome return where limited trust specific activities occurred during the year of assessment.

These are passive trusts with no



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economic activity (it may hold assets but no ongoing activity in the trust), including dormant trusts.

### For distributions received from other trusts:

- Additional questions were added to the Income Tax Return Wizard to determine if any local or foreign amount(s) were vested in the trust as a beneficiary of another trust; and the number of trusts from where these amounts were received.
- Details to be provided per trust in the tax return. This will have to be clearly provided in the financial records of the trust.

### Information on donors/funders of the trust:

- Additional questions were added to the Income Tax Return Wizard to determine if amounts were deemed to have accrued to a donor/funder in terms of Section 7 during the relevant year of assessment.
- Donors or funders (where the deem-

ing provisions of Section 7 apply) must declare trust income and capital gains attributed to them.

A proper trust administration/accounting system will be required to keep track of this very complicated calculation.

■ Beneficial Ownership Declaration where beneficial owners and those who may gain financially from the proceeds of the trust need to be reported.

Tax practitioners and trustees must take note that updated "beneficial ownership" information is also to be provided to the Master on an ongoing basis.

Sars is one of the approved entities who have access to the Master's portal, so an administration system that tracks real-time information on all beneficial owners should be employed not to fall foul of a mismatch of information provided.

### A new requirement to upload mandatory supporting documents with the tax return

All mandatory supporting documents must be uploaded and submitted with the trust tax return, including the trust instrument, annual financial statements and resolutions/minutes of trustee meetings.

The requirements will vary according to the trust type. This is a new onerous requirement, which requires the employment of an integrated trust administration system to ensure the legally required documents are complete and kept up to date in a real-time fashion.

To perform this function manually, possibly relying on others to provide you with the same will be a time-consuming, costly, risky approach.

Beneficiaries of a trust must declare income that was vested in them by the trust during the year of assessment in their respective income tax returns. This information will have to balance back to the new IT3(t), which trustees have to annually submit to Sars based on distributions made to beneficiaries.

The IT3(t)s will have to be submitted before the trust tax returns are due. A proper trust administration system should be employed to ensure this information is available on a real-time basis very soon after the trust's tax year-end, being February of each year.

To register a new trust for income tax and submit supporting documents, use Sars's online platform on their website at [sars.gov.za](https://sars.gov.za) in the Sars Online Trust Registration link.

*Van der Spuy is a Chartered Accountant, a registered Fiduciary Practitioner of South Africa, a Chartered Tax Adviser, a Trust and Estate Practitioner and the founder of Trusteeze®, the provider of a digital trust solution.*