Registration and deregistration requirements for Trusts

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There appears to be a common misconception that once a trust has been terminated at the Master of the High Court (Master), all matters with SARS fall away. The fact is that SARS may still pursue outstanding obligations after a trust's termination with the Master if the trust's tax affairs have not been finalised.

Trustee liability: termination of trusts with outstanding tax obligations

Trustees have a fiduciary duty to ensure that the trust's tax affairs are properly regularised before termination with the Master. This includes ensuring that all outstanding returns have been submitted, assessments have been addressed, and any outstanding tax debt or compliance matters have been resolved. Once the trust is tax compliant and has been terminated with the Master, the deregistration process with SARS can commence.

Updating registered trust details

In terms of section 23 of the Tax Administration Act, 2011, any changes to a trust's registered particulars must be communicated to SARS within 21 business days from the date on which the change occurs. Trustees therefore have an ongoing responsibility to ensure that the information SARS has on record for the trust remains accurate, current and complete.

This requirement is not limited to one specific type of change. It includes, for example, changes to trustees, the representative taxpayer, contact details, physical or postal addresses, and any other registered particulars relevant to the trust.

Failure to notify SARS of changes to registered particulars may constitute an offence under section 234 of the Tax Administration Act.

Registered representative details

Trustees must ensure that SARS has the correct trustee or representative taxpayer recorded on its systems. SARS must always have a current authorised person on record for a trust. Accordingly, where a trustee or representative taxpayer resigns or is replaced, the change must be reported to SARS within 21 business days and supported by the required documentation.

The registered representative details can be updated via the SARS Online Query System (SOQS) on the SARS website. The request must be supported by relevant documentation issued by the Master of the High Court, such as amended Letters of Authority, and any other supporting documents required by SARS. SARS will verify the newly appointed representative against the submitted documentation and once verified, update its records accordingly.

Maintaining accurate representative details helps ensure continuity and accountability in the administration of the trust's tax affairs. It enables SARS to have an authorised person on record who can act on behalf of the trust and receive correspondence from SARS. Trustees are therefore encouraged to update SARS records promptly whenever changes occur.

Registration requirements and supporting documentation

Trust registration is the foundation of tax compliance. There are many trusts that are not registered with SARS and are being identified with the use of data and technology at SARS' disposal. The obligation to register a trust arises from the requirement for trusts to submit an

Income Tax Return for Trusts (ITR12T) in accordance with the annual public notice. A trust must register with SARS within **21 business days** after registration with the Master. Registration is submitted through the SARS Online Query System (SOQS) on the SARS website.

It is important to note that the details submitted should be accurate, complete and consistent with the supporting documents. Incomplete or inconsistent documents may delay the registration process.

The list of required supporting documents is available on the SARS website and may include

- Letters of Authority;
- Trust deed or will;
- Identity and address documents;
- Trust resolution;
- A fully completed, dated and signed IT77TR form; and
- An organogram for beneficial ownership information.

Beneficial ownership details are required
Beneficial ownership information must cover relevant parties such as founders, trustees, beneficiaries, donors and protectors, where applicable. The SARS Online Query System on the SARS website allows a maximum of 10 individuals, across all categories of beneficial owners, to be captured per trust.

Deregistration of a Trust and SARS' economic activity analysis at point of termination
The termination of a trust at the Master does not automatically deregister a trust with SARS. The trust remains on the SARS register until the SARS deregistration process is completed. Trusts should therefore ensure that their tax affairs are fully regularised before termination with the Master. Once a trust has been terminated by the Master, a deregistration request (in the form of a letter) must be submitted to SARS together with the required supporting documentation. Deregistration requests may be submitted *via* email to contactus@sars.gov.za or through a SARS branch by booking an appointment.

Documents required for the deregistration process may include:

- Deregistration request and effective termination date;
- Termination confirmation from the Master;
- Trustees' resolution or minutes approving the deregistration;
- Distribution list or financial statements, where applicable;
- For Collective Investment Schemes, a letter from the Financial Services Conduct Authority (FSCA) confirming cessation;
- A certified copy of the main trustee's identity document;
- A Power of Attorney, where the request is submitted by a third party; and
- A certified copy of the third party's identity document.

All the tax affairs of the trust must be regularised before deregistration. This includes ensuring that all outstanding returns have been submitted, all obligations have been met, and that the trust's tax account reflects a nil balance.

Economic activity analysis is a prerequisite

SARS uses internal and external data sources to determine whether a trust remains economically active or has become inactive. Deregistration may proceed only where the trust is no longer active and no outstanding tax obligations or tax risks remain.