

HOW TO COMPLETE THE INCOME TAX RETURN FOR TRUSTS

INTRODUCTION

This guide is designed to help you complete the income tax return for trusts (IT12TR) accurately and properly. For further assistance visit the local SARS office or contact the SARS Call Centre at 0800 00 SARS (7277).

The return must be completed and submitted by 19 December 2008 if you submit manually. If, however, you submit your return electronically, the submission date is 20 February 2009.

Completing the return

Use a black or blue pen to complete the return and keep your writing within the spaces provided. Do NOT strike through the squares that do not apply.

Please do not use correcting fluid if you have made a mistake. We also request that you do not fold the form as it will delay the processing of the return.

All relevant parts of the return must be completed. Any incomplete return will be sent back and will be marked as not submitted until the completed return is received. This could result in penalties for the late submission of the return.

The following fields on the return are mandatory:

- Signature: The tax return is a legally binding declaration to identify all income received or accrued and all income taxable in the hands of the trust. An unsigned return is therefore worthless
- The year of assessment: This version of the return can also be used for prior years
- The tax reference number of the trust
- The date of registration at the Masters office
- Particulars of the trust (name, address, trust type, contact details, etc.)
- Banking details
- Financial information relating to income. (If no income was received, the field must be completed with a 0 and the applicable profit source code. Refer to the individual sections below dealing with the different types of income sources.)
- Statement of assets and liabilities.

Getting started

To complete the return, the following documentation will be required:

- All certificates and documentation relating to income
- Financial statements and/or administration accounts
- Proof of payment of any tax credits
- Particulars of assets and liabilities.

Signature of the representative taxpayer

The representative taxpayer is obliged to ensure that a full and accurate disclosure is made of all relevant information as required in the income tax return. Misrepresentation, neglect or omission to furnish such return, or furnishing false information, is liable to penalties and/or additional assessments (together with interest) and/or prosecution.

Please note that if the return is not signed it will be returned and regarded as not having been received. This could result in penalties for the late rendition of the return. If the trust is registered on eFiling and the return is submitted electronically, the password received during registration as an eFiler, will serve as the digital signature.

COMPLETION OF THE RETURN

Particulars of the trust

Ensure that all the details relevant to the trust are completed correctly and in full.

Trust type and income rights

Mark the applicable block with an "x" to enable SARS to correctly code the provisional tax status of the trust.

Particulars of representative taxpayer

Ensure that all the relevant details are completed correctly and in full.

Bank account information

Without accurate banking details SARS cannot issue a refund. To avoid fraud and theft, SARS only pays refunds electronically into verified current or savings (transmission) accounts held in the name of the taxpayer in a registered South African financial institution. Electronic transfers of refunds are effected using the branch code number and not the name of the bank. It is therefore not required to provide the name of the bank with which the trust transacts.

Note: SARS only issues cheques in exceptional circumstances, therefore banking details must be provided in order to facilitate a refund. No refund will be paid into the bank account of a third party.

Preferred means of contact

Indicate the preferred means of contact by marking the applicable block by using number 1 to 5. The number 1 indicates the most preferred option, whilst 5 indicates the least preferred option.

Tax practitioner information

If the trust makes use of a tax practitioner to complete the return, this information should be completed by the tax practitioner.

INCOME RECEIVED AND/OR ACCRUED

Main source of income

Consult the Source Code Booklet on the SARS website www.sars.gov.za to complete this field.

General

Although financial statements, receipts and other documentation will be used in the completion of the return, NO supporting documentation must be attached to the return. All information and documentation must be retained for a period of five years after the submission date of the return, should SARS request it.

There are three line items to be completed in respect of the various sources of income. The first line refers to the taxable amount available for distribution. The second line refers to the amount taxable in the hands of another person(s) in terms of the provisions of section 7 and paragraph 80 of the Eighth Schedule to the Act or the amount vested and taxable in the hands of a beneficiary. The third line item refers to the amount taxable in the trust with the corresponding source code. The various sources that provision is made for are the following:

Remuneration

Use the financial statements to determine the amount of taxable remuneration income that would be available for distribution. The source code to be filled in here can be obtained from the source code booklet available on the SARS website www.sars.gov.za.

If no remuneration income was received by the trust, indicate the amount as 0 and fill in 3601 as the source code.

Annuities

Use the certificates received from the institutions where the money is invested, together with the financial information, to determine the amount that would be available for distribution. The source code that must be used here is source code 3611.

If no annuity income was received by the trust, indicate the amount as 0 and fill in 3611 as the source code.

Local Interest

The same procedure used for the completion of the annuity section must be applied here. The source code that must be used here is source code 4201.

If no local interest income was received by the trust, indicate the amount as 0 and fill in 4201 as the source code.

Foreign interest

The same procedure used for the completion of the annuity section must be applied here. The source code that must be used here is source code 4218.

If no foreign interest income was received by the trust, indicate the amount as 0 and fill in 4218 as the source code.

Foreign dividends

The same procedure used for the completion of the annuity section must be applied here. The source code that must be used here is source code 4216 if it relates to a profit and 4217 if it refers to a loss. In the declaration of the taxable amount, the option to elect to be taxed on the net foreign dividend must be noted. If the election is made to be taxed on the net foreign dividend, the "Y" block next to the question on page two of the return in the section relating to foreign tax credits must be marked with an "X".

This also means that the amount declared as taxable must be representative of the amount after the set of any withholding tax. Should this option be taken and the withholding tax will not qualify as a deduction during the assessment process.

The applicable source code here is 4216 if it relates to a profit and 4217 if it relates to a loss.

If no foreign dividend income was received by the trust, indicate the amount as 0 and fill in 4216 as the source code.

Local Capital Gain/Loss

Use the financial information relating to any disposals or deemed disposal to complete this section. Please note that the amount declared must be prior to the application of the inclusion rate as this will programmatically be applied by SARS during the assessment process.

If the return relates to a special trust Type A, the amount must be declared prior to the application of the annual exclusion as the annual exclusion will programmatically be applied by SARS during the assessment process. The inclusion rate for special trusts Type A and B will also be applied programmatically.

The source that will apply here is 4250 in respect of a gain and 4251 in respect of a loss.

If no local capital gain income was received by the trust, indicate the amount as 0 and fill in 4250 as the source code.

Foreign capital gain/loss

The same procedure as for local capital gain/loss must be applied in determining the amounts to be declared.

The source that will apply here is 4252 in respect of a gain and 4253 in respect of a loss.

If no foreign capital gain income was received by the trust, indicate the amount as 0 and fill in 4252 as the source code.

Other local income (excluding rental, business, trade and farming)

In this section any other income not specifically addressed in this return must be declared. Please note that rental and trading income must be declared in the rental, business and trading section of the return where as farming income must be declared in the farming section.

The source code that will apply here must be obtained from the Source Code Booklet available on the SARS website www.sars.gov.za.

If no other income was received by the trust, indicate the amount as 0 and use code 4214 as the source code.

Total taxable foreign income (excluding interest, dividends, capital gain transactions and farming activities)

Calculate the amount of foreign income received by using the information contained in the applicable financial statements/certificates.

Please note that although financial statements drawn up in another currency will be acceptable as substantiating documentation, if requested, the amounts declared must be translated to the currency of the Republic.

The source code that will apply here must be obtained from the Source Code Booklet available on the SARS website www.sars.gov.za.

If no total taxable foreign income was received by the trust, indicate the amount as 0 and fill in 4220 as the source code.

PAYE CREDITS

In this section of the return provision is made for reflecting amounts in RANDS and CENTS. Please note that only the amounts that directly relate to the taxable income of the trust must be reflected in this section.

The return makes provision for the declaration of the information relating to three IRP5/IT3(a) certificates. All the requested information in this section in respect of certificates received must be declared.

- If only one IRP5 or IT3(a) certificate was received, only the first section must be completed. The IRP5/IT3(a) certificate number, which is located in the top left hand corner of the certificate, must be filled in. If a duplicate certificate was issued the certificate will carry two certificate numbers. The number that must be filled in is the one listed next to the original certificate number.
- The PAYE reference number is located directly below the certificate number. In the case of an IRP5 the number will always start with a "7".
- The gross income is located in the section of the certificate that deals with gross remuneration.

FOREIGN TAX CREDITS

Here provision is also made for the declaration of Rands and Cents. Please note that only the amounts that directly relate to the taxable income of the trust must be reflected in this section.

The amounts of withholding taxes in respect of foreign interest, foreign dividends, foreign capital gains and other foreign income must be declared separately to enable SARS to correctly calculate the allowable amount of credits to be considered in terms of section 6quat of the Income Tax Act.

Foreign tax credits will be limited to the South African tax payable in relation to the foreign income received by applying the following formula:

$$\frac{\text{Foreign taxable income} \times \text{Normal tax payable}}{\text{Total taxable income}}$$

Proof of payment of foreign taxes

The under-mentioned serve as examples of proof of payment that will be accepted, if requested, in respect of foreign taxes paid:

- Where foreign tax has been withheld at source – the original documentation issued by the applicable institution.
- Where foreign tax has not been withheld at source – an assessment or receipt issued by the relevant tax authority.

Election to be taxed on net foreign dividends

If the trust elects to be taxed on the net foreign dividend, the appropriate block must be marked with an "X". Please also refer to the paragraph dealing with foreign dividends in the Income Section of this guide.

Statement of assets and liabilities

It is mandatory that the applicable line items in respect of local assets and liabilities be completed. Only the aggregate amounts in respect of the foreign assets and liabilities must be filled in. If the trust does not have any local of foreign assets and/or liabilities, a 0 must be filled in next to the line items that refer to the total amounts..

LOCAL BUSINESS AND TRADING INCOME

Use the financial statements to complete the applicable line items in this schedule. This schedule also makes provision for the same three line items as the other income sources discussed at the beginning of the Income received and accrued section of this guide. The taxable income available for distribution must again be filled in followed by the amount taxable in terms of section 7 or the amount vested in the beneficiaries and then the amount taxable in the trust and the applicable source code.

The source code table available on the SARS website www.sars.gov.za must be used to determine the applicable source code that must be filled in.

If no local business and trading income were received by the trust, indicate the amount as 0 and fill in 2198 as the source code.

GENERAL INFORMATION

This section must be completed by every trust. All supporting documentation relating to any of the questions in this section must be retained for a period of five years after the date of submission of the return.

The question relating to mining activities refers to schedules that must be completed and attached to the return. These schedules can be obtained on the SARS website www.sars.gov.za.

INCOME FROM FARMING OPERATIONS

Did the trust partake in farming partnership operations? If yes, the number of partnerships must be indicated. The IT12TR - I schedule in respect of each partnership must also be completed. The IT12TR- I can be obtained on the SARS website www.sarsefiling.co.za. It must be completed in respect of each partnership and the completed schedules must be attached to the return, otherwise the return will be considered incomplete and returned for proper completion.

All income derived directly from pastoral, agricultural or other farming operations will constitute farming income. Income from farming activities will, besides including the ordinary farming income, also include, for example, grazing fees derived by a person who carries on farming operations, recoupment of wear and tear allowed on vehicles, implements and machinery used to carry on farming activities and subsidies received by farmers, whether in respect of farm products or capital expenditure on dams.

Stakes won by a farmer as a result of racing horses bred by him/her and a fixed rental income received in respect of farming property will, for example, not constitute farming income.

To assist in the determination of the farming profit or loss of the trust, the Farming section in the Comprehensive ITR12 brochure, available on the SARS website www.sars.gov.za can be utilised. Please note that the equalized rate selection however only applies to individuals and cannot therefore be utilized for purposes of a trust.

The source that will apply here must be obtained from the Source Code Booklet available on the SARS website www.sars.gov.za.

If no farming income was received by the trust, indicate the amount as 0 and fill in 0198 as the source code.

HOW TO OBTAIN A RETURN

- Register online on www.sarsefiling.co.za to electronically access and submit the return; or
- Phone the SARS Call Centre at 0800 00 SARS (7277) or
- Approach your local SARS branch office.

CHOOSE THE WAY TO SUBMIT THE RETURN

Electronically

Register the trust for eFiling to electronically receive, complete and submit the return.

Drop off

All SARS branches have drop boxes where the completed return can be deposited.