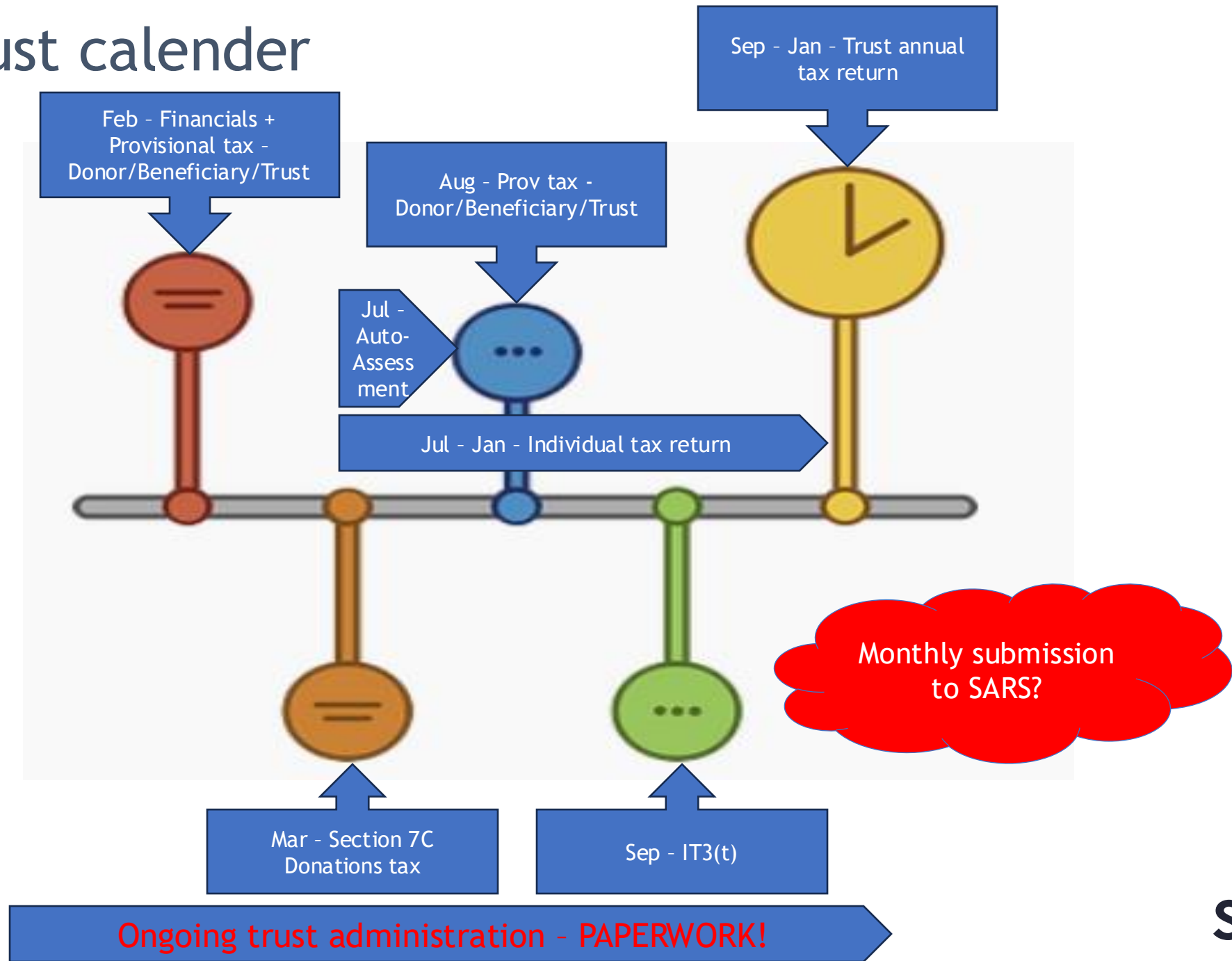




**Plan your calendar and
activities around trust-related
submissions to SARS**

YOUR KEY TO THE TAX COMMUNITY

Trust calender



The gap...

Apparently 610 000 inter vivos trusts

Setting up a trust

Apparently 400 000 “trusts” registered (inter vivos and testamentary), but only estimated 220 000 to 250 000 real inter vivos trusts; only 132 000 (33%) submitted tax returns

Accounting and tax



Trust admin

Penalties for non-submission – April/September 2025

SARS and Master talk

Myth ...

Financial Statements = Trust compliance

Statement of Financial Activities

for the year to 31 March 2015

	For the Year to 31 March 2015			Year to 31 March 2014
	Unrestricted Funds £	Endowment Funds £	Total £	Total £
INCOMING RESOURCES				
Investment Income	2,568,562	-	2,568,562	2,346,226
TOTAL INCOMING RESOURCES	2,568,562	-	2,568,562	2,346,226
RESOURCES EXPENDED				
Cost of Generating Funds	-	904,469	904,469	1,066,585
Charitable Activities	1,891,757	-	1,891,757	1,589,755
Governance Costs	18,575	-	18,575	13,132
TOTAL RESOURCES EXPENDED	1,910,332	904,469	2,774,801	2,669,472
NET INCOMING / (OUTGOING) RESOURCES for the year before net recognised gains and losses	698,230	(904,469)	(206,239)	(323,246)
OTHER RECOGNISED GAINS AND LOSSES				
Realised and Unrealised Gains / (Losses) on investment assets	-	29,992,640	29,992,640	(813,164)
Realised (Loss) / Gain on currency held within investment assets	-	(1,753,322)	(1,753,322)	(3,865,842)
NET MOVEMENT IN FUNDS	698,230	27,334,949	28,033,179	(8,542,252)
FUNDS at 1 April 2014	2,031,061	236,856,984	279,887,645	63,429,000
TOTAL FUNDS at 31 March 2015	2,729,291	304,191,933	306,920,824	279,887,645

Balance Sheet

for the year to 31 March 2015

	2015 £	2014 £
FIXED ASSETS		
Tangible assets	12,071	22,449
Investments (at Market Value)	285,957,370	257,138,721
	<u>285,970,041</u>	<u>257,161,170</u>
CURRENT ASSETS		
Debtors	511,607	513,386
Cash at Bank in Hand	20,584,817	21,386,763
	<u>21,096,424</u>	<u>21,900,149</u>
CREDITORS - amounts falling due within one year	(145,681)	(173,574)
NET CURRENT ASSETS	20,950,743	21,726,475
TOTAL ASSETS LESS LIABILITIES	306,920,824	279,887,644
Represented by:-		
UNRESTRICTED FUNDS	2,729,291	2,031,061
EXPENDABLE ENDOWMENT FUNDS	304,191,933	276,856,984
TOTAL FUNDS	306,920,824	279,887,645

The 2023 trust reset



The South African Revenue Service (SARS) webinar on 29 July 2021 - Trust and Tax obligations

- Objective 1 - Clarity and certainty
- Objective 2 - Make it easy to comply with obligations
- Objective 3 - Make non-compliance hard and costly
- Objective 4 - Strong workforce
- **Objective 5 - Expand use of data**
- **Objective 6 - Modernise systems**
- Objective 8 - Work with stakeholders
- Objective 9 - Build public trust and confidence in tax administration system

SARS “Trust and Tax Compliance” webinar

29 February 2024

4 pillars of compliance as they relate to trusts - registration, filing, declaration, and payment

Obligation to register as a taxpayer

- Increase in trust registrations from 4,000 in 2021 to 7,500 in 2023
 - Note - still about 10,000 to 12,000 trusts registered per year!
- 47% of newly registered trusts in 2023 were timeously registered as taxpayers with SARS
- Only about 380,000 trusts have been registered with SARS to date
- SARS will use third-party data to register existing, unregistered trusts. SARS indicated that they would soon register trusts as taxpayers simultaneously with their registrations with Master, similar to new company registrations with CIPC

“Trust Filing Season: Form and System Changes to be introduced from 23 June 2023”



Attribution rules

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

- Additional questions 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 deeming provisions of Section 7 apply) must declare trust income and capital gains attributed to them.

“Trust Filing Season: Form and System Changes to be Introduced from 23 June 2023” (cont)

Feb - Prov
Jul - Jan - Annual
return

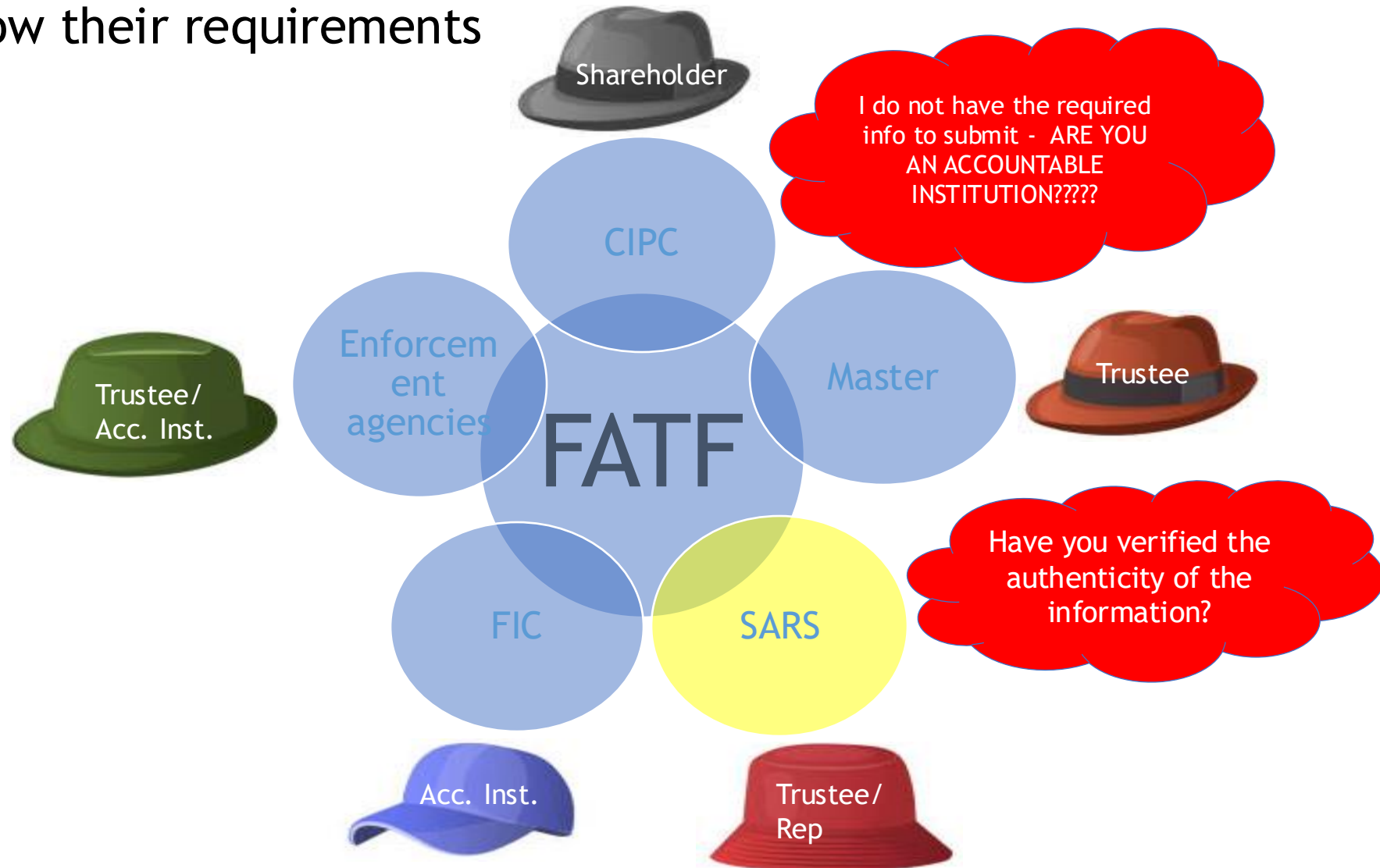
Beneficiaries of the trust:

- 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)'s which trustees have to annually submit to SARS, based on distributions made to beneficiaries.
- Government Gazette 30 June 2023 - IT3(t)
 - [Changed to September 2024 - SARS communication 10 November 2023]

Sep

IT3(t)

Who is who in the zoo?
Know their requirements



SARS requirements for Beneficial Ownership info

Master	SARS
Founders	Founders
Trustees	Trustees
Beneficiaries	Beneficiaries
	Donor
	Protector
	Trust/legal entity Representative - details

Starting point - check the trust deed



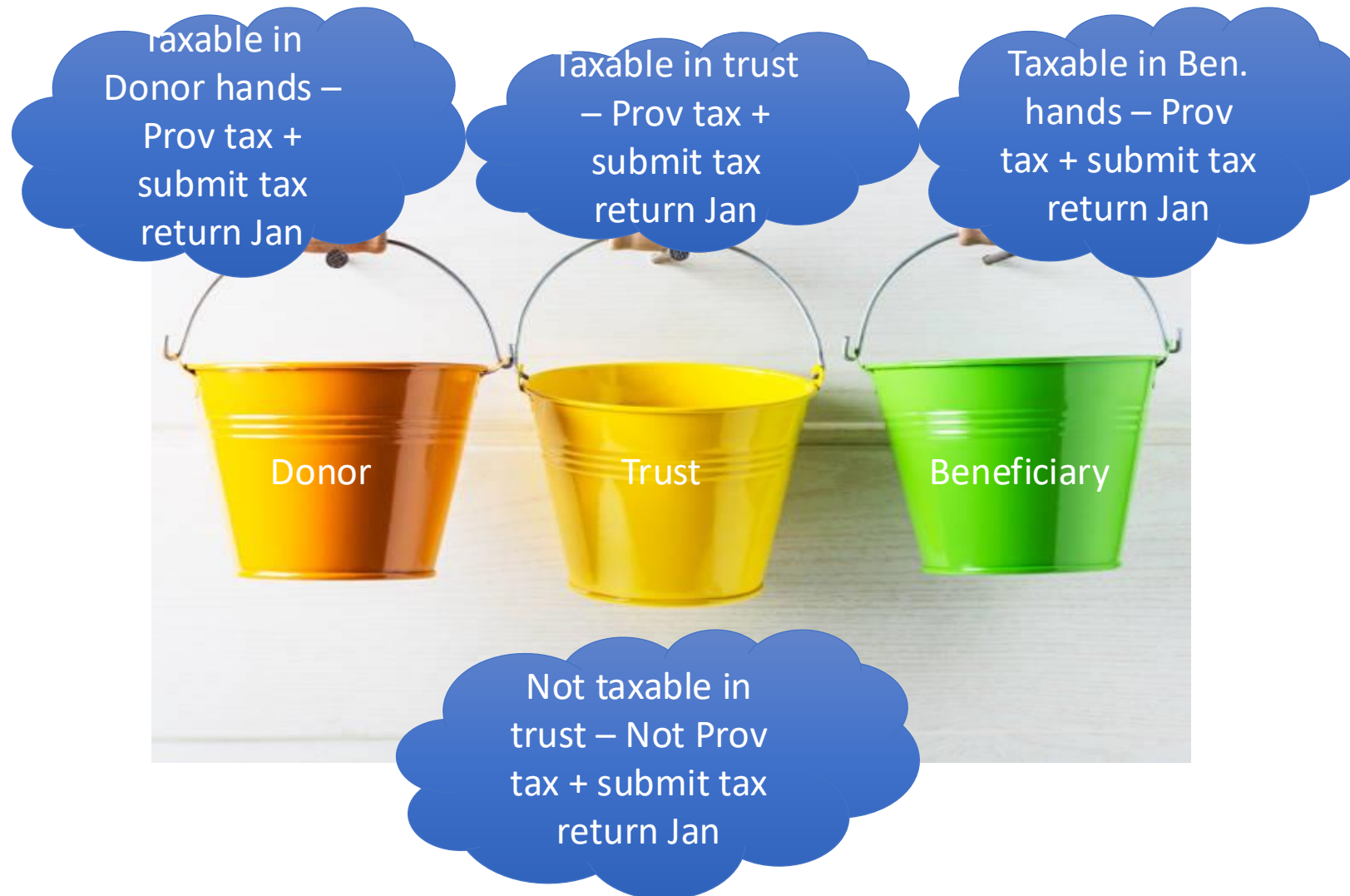
Follow the rules

RULES:

- Firstly, did you **donate or lend** to trust at below-market interest rates? → Attribute income/capital gains to you and you pay tax (Section 7 of the Income Tax Act for income and Par 68 to 73 of the Eighth Schedule to the Income Tax Act for capital gains)
- Then, did trustees use “**Conduit Principle**” to distribute income or capital gain to you as beneficiary (together with tax liability)? → You pay tax (Section 25B of the Income Tax Act for income and Par 80(2) of the Eighth Schedule to the Income Tax Act for capital gains (Armstrong and Rosen))
- **Trust** pays tax on the rest



Who pays provisional tax on trust income and capital gains?



Know your client

All family in
SA; only SA
structures

SA
structures

Family in SA



International
family

International
structures

SA trust with SA beneficiaries



By end Feb, incl
resolutions

Attribution rules first:

You made **donation/loan at below-market interest rate** to trust and trust:

- distributes related income/capital gain to spouse (OCOP) to avoid tax (Section 7(2))
- distributes related income/capital gain to minor child (Section 7(3))
- retains income/capital gain in discretionary trust/SA company held by trust (Section 7(5)), or

Trust distributes income/capital gain **BUT** you retain right to **revoke** the income or capital gain distribution, to **terminate** the trust, or to cancel or overrule **right** of a beneficiary to receive distribution from trust (Section 7(6))

Then: distribution of income (Section 25B) and capital gains (Par 80(2)) - taxed in hands of SA beneficiaries

SA trusts distribute to foreign beneficiaries



By end Feb, incl
resolutions

- SA trust distributing income/capital gain resulting from a **donation or loan** at a below-market interest rate to a **foreign beneficiary** in the same year → **SA donor/funder taxed**
- For SA trusts: After Attribution rules applied, distribution of **capital gains** to **foreign beneficiary** - **taxed in SA trust** (Par 80(2))
- For SA trusts: After Attribution rules applied, distribution of **income** to **foreign beneficiary** - **taxed in SA trust** (Section 25B) (new from 1 March 2024 - aligned with existing Par 80(2))

NOTE: Then trust provisional taxpayer!!!



Have
beneficiaries
emigrated?

Deduction from income in trust

- Section 23(f) of Income Tax Act - “*any expenses incurred in respect of any amounts received or accrued which do not constitute income as defined in section one*” of Income Tax are **not deductible**.
- Section 11 of Income Tax Act permits deduction of expenses from income in calculation of tax, but Section 23(g) of Income Tax Act **limits** these expenses to amounts incurred for purpose of **trade**; in other words, for producing **taxable income**. Trustees required to prove to SARS that expenditures deducted from taxable income incurred during production of such income.

Apportionment of expenses with distributions

- Where income of trust vests in beneficiary, any deduction or allowance **relating to income** also vests in beneficiary (Section 25B(3) of Income Tax Act)
- Any deduction, however, **limited to income** accruing to beneficiary from trust. A trust, therefore, prevented from distributing loss. Any clause in trust instrument allowing trustees to distribute losses to beneficiaries therefore invalid.
- Deductions or allowances under Section 25B(3) must be **apportioned** between various amounts that accrue to trust or that are deemed to accrue to beneficiary under Section 25B(1) (beneficiary has a vested right in terms of trust instrument) and Section 25B(2) (beneficiary acquired vested right in consequence of trustees exercising their discretion in favour of beneficiary), **unless deduction or allowance is incurred directly in production of specific amount**, in which case deduction or allowance must be made against that specific amount that may have accrued to trust or be deemed to have accrued to beneficiary

Apportionment of expenses with distributions (cont.)

- Although SARS not prescriptive as to how expenses should be apportioned between taxable income (for example, rental income) and exempt income (for example, income from dividends), onus on **trustees to prove** that they have applied their minds and that ultimate apportionments are fair and reasonable. Trustees to demonstrate **sound basis** for allocation and **not only attempt to achieve best tax position**. Judge confirmed in Local Investment Co v Commissioner of Taxes case of 2014 that *“It does not seem possible to me to lay down any general rules as to how the apportionment should be made, other than saying that the apportionment must be fair and reasonable, having regard to all the circumstances of the case”*. It does, however, appear that SARS favours apportionment on basis of **gross income** - expenses apportioned in the same proportion as taxable income to non-taxable income. The trustees to supply proof that the apportionment basis was **fair and reasonable**.
- Deductions and allowances must be allocated between trust and beneficiaries in same proportion as amount, which is received by trust, has been allocated. Should full deduction **not be used by beneficiary**, it can be **utilised by trust** but will be **limited to taxable income of trust** before deduction of such expenditure (so as to not create loss). If trust cannot absorb full deduction or allowance disallowed to beneficiary, **excess** may be granted as deduction or allowance to **beneficiary in next year** of assessment, subject to it being **limited to income accruing to beneficiary from that trust** (Section 25B(4) to (6) of Income Tax Act). Sections 25B(4) to (6) do not apply where the beneficiary is not subject to tax in South Africa on those distributions.

Sale or distribution of assets

- Asset can be **distributed** to (or vested in) South African resident beneficiary - **deemed a disposal** for Capital Gains Tax purposes (Paragraph 11(1) of Eighth Schedule to Income Tax Act)
 - Capital gain arises by virtue of operation of Paragraph 38 of Eighth Schedule to Income Tax Act - if asset transferred by way of donation or to 'connected person' at consideration that does not reflect arm's length price, **deemed to be disposed of at market value**
 - Capital gain will be taxed in hands of **beneficiary** (Paragraph 80(1) of Eighth Schedule to Income Tax Act), subject to anti-avoidance provisions
- Asset **disposed of to third party**
 - Trust will make capital gain on transaction, and this gain will be taxable in hands of either **donor/funder, beneficiary, or trust**
- Taxable portion of capital gain is included in trust's taxable income (as opposed to income) - deeming provisions of Sections 25B and 7 do not apply. Therefore, **Eighth Schedule has special attribution rules** (assignment or allocation rules) specifically dealing with capital gains arising in trust
- A capital gain cannot be distributed to beneficiary for it to be taxed in their hands without specific **power** (Paragraph 80(2) of the Eighth Schedule to Income Tax Act)

Practical example of calculation



Keep up-to-date

		Property 1	Property 2	Investment	Shares
Investment		1,000,000	750,000	500,000	100,000
When acquired		30 June 2021	30 June 2021	01 March 2022	01 March 2023
Tax year acquired		2022	2022	2023	2024
How funded		Loan	Loan	Donation	Trust cash
Who donated/funded		Estate planner, father	Bank	Estate planner's wife	
Interest		0%	10%		
Repayments		nil	nil		
Sold on 28 Feb 2024		3,000,000			
Tax year sold		2,024			
Interest rates (assuming same rate all years):					
Market related rate		12%			

Practical example of calculation

		Property 1	Property 2	Investment	Shares	Total
Income for 2022:						30,000
Rental		30,000	-			30,000
Interest						-
Dividends					-	-
Expenses for 2022:						(46,000)
Maintenance		(10,000)	(7,000)			(17,000)
Water and lights		(5,000)	(6,000)			(11,000)
Levies		(5,000)	(5,000)			(10,000)
Interest			(8,000)			(8,000)
Investment fees						-
General trust costs - (apportioned according to gross income):						(9,000)
Trustee fees	(8,000)	(8,000)	-	-	-	(8,000)
Bank charges	(1,000)	(1,000)	-	-	-	(1,000)
Net income		1,000	(26,000)	-	-	(25,000)
Not available for distribution			26,000			26,000
Distribution to minor child		(1,000)		-	-	(1,000)
Taxable in trust						-

Practical example of calculation

		Property 1	Property 2	Investment	Shares	Total
Income for 2023:						47,000
Rental		37,000	-			37,000
Interest				10,000		10,000
Dividends						-
Expenses for 2023:						(57,000)
Maintenance		(15,000)	(8,000)			(23,000)
Water and lights		(7,000)	(7,000)			(14,000)
Levies		(6,000)	(6,000)			(12,000)
Interest			(7,000)			(7,000)
Investment fees				(1,000)		(1,000)
General trust costs - (apportioned according to gross income):						(11,000)
Trustee fees	(9,000)	(7,085)	-	(1,915)	-	(9,000)
Bank charges	(2,000)	(1,574)	-	(426)	-	(2,000)
Net income		340	(28,000)	6,660	-	(21,000)
Not available for distribution			28,000			28,000
Distribution to minor child		(340)		(6,660)	-	(7,000)
Taxable in trust						-

Practical example of calculation

		Property 1	Property 2	Investment	Shares	
Income for 2024:						105,000
Rental		40,000	-			40,000
Interest				15,000		15,000
Dividends					50,000	50,000
Expenses for 2024:						(57,000)
Maintenance		(15,000)	(9,000)			(24,000)
Water and lights		(5,000)	(8,000)			(13,000)
Levies		(5,000)	(7,000)			(12,000)
Interest			(6,000)			(6,000)
Investment fees				(2,000)		(2,000)
General trust costs - (apportioned according to gross income):						(13,000)
Trustee fees	(10,000)	(3,810)	-	(1,429)	(4,762)	(10,000)
Bank charges	(3,000)	(1,143)	-	(429)	(1,429)	(3,000)
Net income		10,048	(30,000)	11,143	43,810	35,000
Not available for distribution			30,000			30,000
Capital gain		2,000,000				2,000,000
Distribution to minor child		(1,010,048)		(11,143)	(43,810)	(1,065,000)
Taxable in trust						1,000,000

Practical example of calculation

Tax calculation	Property 1						Property 2		Investment		Shares					
	Income	Expenses	Attribution	Capital Gain	Difference	Cumulative difference	Income	Expenses	Income	Expenses	Income	Expenses	To be included in funder tax return	To be included in donor tax return	To be included in beneficiary tax return	To be included in trust tax return
2022	30,000	(29,000)	(80,000)		(79,000)	(79,000)	-	(26,000)	-	-	-	-	1,000	-	-	
2023	37,000	(36,660)	(120,000)		(119,660)	(198,660)	-	(28,000)	10,000	(3,340)	-	-	340	6,660	-	
2024	40,000	(29,952)	(120,000)	2,000,000	1,890,048	1,691,388	-	(30,000)	15,000	(3,857)	50,000	(6,190)	318,660	11,143	735,198	1,000,000
Total	107,000	(95,612)	(320,000)	2,000,000			-	(84,000)	25,000	(7,198)	50,000	(6,190)	320,000	17,802	735,198	1,000,000
								Lose								
Total Net income	(11,000)												IT3(t)	IT3(t)	IT3(t)	
Capital Gain	2,000,000															
TOTAL	1,989,000															
Test:	1,989,000															



March

S7C Donations Tax

February Financials

Statement of Financial Activities

for the year to 31 March 2015

	For the Year to 31 March 2015			Year to 31 March 2014
	Unrestricted Funds £	Endowment Funds £	Total £	Total £
INCOMING RESOURCES				
Investment Income	2,568,562	-	2,568,562	2,346,226
TOTAL INCOMING RESOURCES	2,568,562	-	2,568,562	2,346,226
RESOURCES EXPENDED				
Cost of Generating Funds	-	904,469	904,469	1,066,585
Charitable Activities	1,851,757	-	1,851,757	1,589,755
Governance Costs	18,575	-	18,575	13,132
TOTAL RESOURCES EXPENDED	1,870,332	904,469	2,774,801	2,669,472
NET INCOMING / (OUTGOING) RESOURCES for the year before net recognised gains and losses	698,230	(904,469)	(206,239)	116,754
OTHER RECOGNISED GAINS AND LOSSES				
Realised and Unrealised Gains / (Losses) on Investment assets	-	29,992,640	29,992,640	(813,164)
Realised (Loss) / Gain on currency held within investment assets	-	(1,753,222)	(1,753,222)	(3,865,842)
NET MOVEMENT IN FUNDS	698,230	27,334,949	28,033,179	(8,542,252)
FUNDS at 1 April 2014	2,031,061	236,856,984	238,888,045	83,429,900
TOTAL FUNDS at 31 March 2015	2,729,291	264,191,933	266,921,224	274,887,648

Balance Sheet


for the year to 31 March 2015

	2015 £	2014 £
FIXED ASSETS		
Tangible assets	12,671	22,469
Investments (at Market Value)	285,957,370	257,138,721
	285,970,041	257,161,170
CURRENT ASSETS		
Debtors	511,007	512,286
Cash at Bank in Hand	20,584,887	21,386,763
	21,095,894	21,904,069
CREDITORS - amounts falling due within one year	(145,661)	(172,574)
NET CURRENT ASSETS	20,950,233	21,731,695
TOTAL ASSETS LESS LIABILITIES	306,920,824	278,887,648
Represented by:-		
UNRESTRICTED FUNDS	2,729,291	2,031,061
EXPENDABLE ENDOWMENT FUNDS	304,191,533	276,856,984
TOTAL FUNDS	306,920,824	278,887,648



September

IT3(t)



NB - May re-open
Auto-assessments July
Annual tax returns submitted
July to September

Mind the gap...

- Not a greylisting measure!!!
- In 2022 SARS performed a reconciliation between distributions by trustees to beneficiaries and those declared by beneficiaries in their returns - R 58 bn to R 65 bn not declared by beneficiaries ➡ low hanging fruit for SARS to collect what is due to it
- By making more than 600 000 boards of trustees third-party data providers to SARS, similar to banks, medical schemes, fund administrators, etc.
- Similar to other third-party data providers, SARS wants to use data to pre-populate taxpayer's tax returns
- Mindful - not only beneficiaries but also donor/funders

IT3(t) submission - SARS website

Who to submit:

- Representative taxpayers (trustees)
- Tax practitioners
- Trust representatives

What to submit:

- Amounts vested to beneficiaries of Trusts in a year of assessment (irrespective of whether the amount vested was paid or credited on loan account in favour of the beneficiary) OR
- Amounts vested to beneficiaries but where the amount is subject to a donation, settlement or other disposition and the donor is to be taxed on the amounts. ((irrespective of whether the amount vested was paid or credited on loan account in favour of the beneficiary)

How to submit: eFiling, HTTPS or Connect Direct for data submission

When to submit: Annually; as per the date in the annual notice

Government Gazette - 30 June 2023

Returns of information to be submitted by third parties in terms of section 26 of the Tax Administration Act, 2011 (Act no. 28 of 2011)

The following persons are required to submit a return as specified in paragraph 3:

- A “trust” as defined in section 1 of the Income Tax Act, that is a “resident” as defined in that section, or a non-resident that is required to submit an annual income tax return,

excluding—

- a Collective Investment Scheme as defined in the Collective Investment Schemes Control Act, 2002, a “portfolio of a collective investment scheme” and any “portfolio of a hedge fund collective investment scheme”
- an Employment Share Incentive Scheme Trust

<https://www.sars.gov.za/gen-enr-01-g10-manage-submission-of-third-party-data-external-guide/> - 19 March 2024

- Trustees are to supply information as per the Government Gazette. These include the amounts vested to the beneficiary of a trust.
- **eFiling registered submitting entities** submit data to SARS by utilising one of the following platforms, which is dependent on the size of the data:
 - i) **eFiling** for IT3-01 form (max of 20 certificates)
 - ii) Secure Web (**HTTPS** - Hypertext Transfer Protocol Secure) submitting data files (for medium-sized data):
 - IBM® Sterling File Gateway® technologies for secure file transfer; web-based interfaces for customer self-services which entities gain access by obtaining a digital certificate and the link from SARS
 - Primary protocol used to send data between a web browser and a website. HTTPS is encrypted in order to increase security of data transfer.
 - Free service
 - Website upload; single file, max 10 MG, but can submit multiple files
 - iii) **Connect Direct** for bulk data submitting data files
 - Uses IBM Sterling IBM®Connect:Direct® and IBM® Sterling File Gateway® technologies for secure file transfer
 - Web-based interfaces for customer self-services, which entities gain access by obtaining a digital certificate and the link from SARS
 - Traditional system used to submit bulk data (by banks) - 5 to 10 GB
- **NOTE: BRS - Submissions via API process is for a future phase - not applicable to this BRS.**

Where to start - get registered and activated on e-filing



- Registered on eFiling
- Added portfolio - As Individual, Organisation or Tax Practitioner
- Activated Registered Representative/Tax Practitioner
- Activate IT3(t) tax type on eFiling for SARS to issue returns

Enrol for HTTPS on eFiling



Figure 1: Steps to enable eFiling Users for Third-Party Data submission.



1. Business Administrator /Reg. Rep/Tax Practitioner - - eFiling full administrator; enrolls Organisation and Technical Administrator. No new role - automatically given role when enrolling Organisation
2. Technical Administrator - Requests Security Certificate and enrol Technical User - if removed, first add new one
3. Technical User/s - Submit data files to SARS

Additional information: SARS_External BRS_2022_IT3s_v4.0.0T-9

Keep up-
to-date

	Person doing submission/Contact person	Submitting entity data	Reporting institution (Trust)	Details of person / beneficiary
Unique number			X	X
Natural person				X
Name	X	X		X
Surname/Registered name	X	X	X	X
Trading name		X		
Initials		X		X
Identification type		X		
Identification number		X		X
Passport number				X
Passport country of issue		X		X
Passport issue date				X
Date of birth				X

Sub E to
create - 1 to
100
characters

Additional information: SARS_External BRS_2022_IT3s_v4.0.0T-9



	Person doing submission/Contact person	Submitting entity data	Reporting institution (Trust)	Details of person / beneficiary
Telephone/Business tel nr	X	X	X	X
Cell nr	X	X	X	X
Contact email	X	X	X	X
Regulator registration nr/Reg nr		X	X	X
Regulator designation		X		
Date registered Master's Office			X	
URN (Master)			X	
Master's Office registration			X	
Tax reference number		X	X	X
Residency tax purposes			X	X

Additional information: SARS_External BRS_2022_IT3s_v4.0.0T-9



	Person doing submission/Contact person	Submitting entity data	Reporting institution (Trust)	Details of person / beneficiary
Trust type			X	
Connected person?				X
Person beneficiary of this trust?				X
Founder of trust?				X
Donor of trust				X
Universal branch code		X		
Postal address (4 lines)		X	X	X
Postal code		X	X	X
Physical address			X	X



Additional information: SARS_External BRS_2022_IT3s_v4.0.0T-9

	Person doing submission/C ontact person	Submitting entity data	Reporting institution (Trust)	Details of person / beneficiary
Submission tax year		X		
Period start date		X		
Period end date		X		
Nature of person – Appendix A BRS		X	X	
Taxable on amount distributed to vested				X
Received accrued non-taxable amounts				X
Received accrued capital or asset distribution				X
Made donations to				X
Made contributions to				X
Received donations from				X
Received contributions from				X
Made distributions to (by trust/foundation)				X
Received refunds on contributions to				X
Right of use of assets				X

Additional information: SARS_External BRS_2022_IT3s_v4.0.0T-9

Taxable amounts distributed / vested in beneficiaries	
Unique number	Submitting Entity to create - 1 to 100 characters
Amount subject to tax (net amount distributed/vested)	
Source code	
Foreign tax credits	

Additional information: SARS_External BRS_2022_IT3s_v4.0.0T-9

Details of non-taxable income distributed	
Unique number	Submitting Entity to create - 1 to 100 characters
Local dividends	
Exempt foreign dividends	
Other non-taxable income	

Additional information: SARS_External BRS_2022_IT3s_v4.0.0T-9

Trust financial flows	
Unique number	Submitting Entity to create - 1 to 100 characters
Total Value of capital distributed	
Total expenses incurred (use of trust assets)	
Total donations to the trust	
Total contributions to trust	
Total donations received from trust	
Total contributions received from trust	
Total distributions to trust	
Total contributions refunded by trust	



Sep - Jan

Annual tax return (ITR12T)

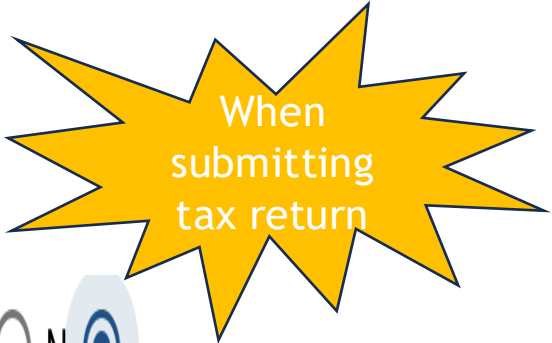
Expanded tax reporting (ITR12T) from 2024 YOA



- Expanded Beneficial Ownership reporting - Reporting of unnamed beneficiaries
 - Comprehensive Guide to the Income Tax Return for Trusts (effective date 16 September 2024)
- d) To complete unnamed beneficiaries, select the "**Other**" option and provide the following information.
 - i) The description as per the Trust instrument of the unnamed beneficiaries
 - ii) A short description of what is meant with or detail of this category of beneficial owners
- Pre-populated Beneficial Ownership data - 2023 tax return - pre-populated in 2024 tax return
 - Capturer to verify the accuracy of pre-populated data

SARS and Master
integration?

Representative Taxpayer

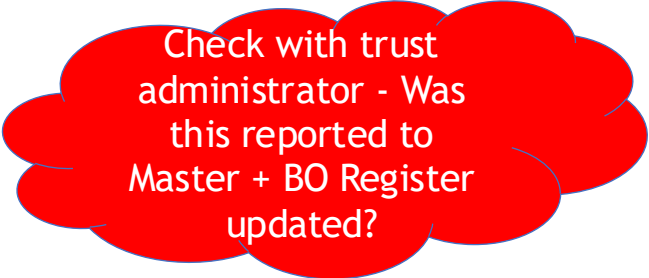


When
submitting
tax return

Does the Trust confirm that the person appointed as a trustee has not been disqualified i.t.o. s6 of the Trust Property Control Act? Y ☐ N ☒



Please note that where the trustee has been disqualified in terms of s6 of the Trust Property Control Act, you are required to update the details of the trustee using the "Registration, Amendment and Verification (RAV01) form on eFiling."



Check with trust
administrator - Was
this reported to
Master + BO Register
updated?

Section 246 of Tax Administration Act - Public Officer

2. Section 6 of the Trust Property Control Act, 1988, is hereby amended by the insertion after subsection (1) of the following subsection:

“(1A) A person is disqualified from being authorized as a trustee if the person—

- (a) is an unrehabilitated insolvent;
- (b) has been prohibited by a court to be a director of a company, or declared by a court to be delinquent in terms of section 162 of the Companies Act, 2008 (Act No. 71 of 2008), or section 47 of the Close Corporations Act, 1984 (Act No. 69 of 1984);
- (c) is prohibited in terms of any law to be a director of a company;
- (d) has been removed from an office of trust, on the grounds of misconduct involving dishonesty;
- (e) has been convicted, in the Republic or elsewhere, and imprisoned without the option of a fine, or fined more than the prescribed amount in terms of section 69 of the Companies Act, 2008, for theft, fraud, forgery, perjury or an offence—
 - (i) involving fraud, misrepresentation or dishonesty, or money laundering, terrorist financing or proliferation financing activities as those terms are defined in section 1(1) of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001);
 - (ii) in connection with the promotion, formation or management of a company, or in connection with any act contemplated in section 69(2) or (5) of the Companies Act, 2008; or
 - (iii) under this Act, the Companies Act, 2008, the Insolvency Act, 1936 (Act No. 24 of 1936), the Close Corporations Act, 1984, the Competition Act, 1998 (Act No. 89 of 1998), the Financial Intelligence Centre Act, 2001, the Financial Markets Act, 2012 (Act No. 19 of 2012), Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), the Protection of Constitutional Democracy Against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004), or the Tax Administration Act, 2011 (Act No. 28 of 2011);
- (f) is subject to a resolution adopted by the Security Council of the United Nations when acting under Chapter VII of the Charter of the United Nations, providing for financial sanctions which entail the identification of persons or entities against whom member states of the United Nations must take the actions specified in the resolution; or
- (g) is an unemancipated minor, or is under a similar legal disability.

(1B) A disqualification in terms of subsection (1A)(d) or (e) ends at the later of

Section 246 of Tax Administration Act – Public Officer

- (a) five years after the date of removal from office, or the completion of the sentence imposed for the relevant offence, as the case may be; or
- (b) one or more extensions, as determined by a court from time to time, on application by the Master in terms of subsection (1C).

(1C) A disqualification in terms of subsection (1A)(f) ends when the Security Council of the United Nations takes a decision to no longer apply that resolution to a person contemplated in that subsection.

(1D) At any time before the expiry of a person's disqualification in terms of subsection (1A)(d) or (e)—

- (a) the Master may apply to a court for an extension contemplated in subsection (1B)(b); and
- (b) the court may extend the disqualification for no more than five years at a time, if the court is satisfied that an extension is necessary to protect the public, having regard to the conduct of the disqualified person up to the time of the application.

(1E) A court may exempt a person from the application of any provision of subsection (1A)(a), (c), (d) or (e).

(1F) The Registrar of the Court must, upon—

- (a) the issue of a sequestration order;
 - (b) the issue of an order for the removal of a person from any office of trust on the grounds of misconduct involving dishonesty; or
 - (c) a conviction for an offence referred to in subsection (1A)(e),
- send a copy of the relevant order or particulars of the conviction, as the case may be, to the Master.

(1G) The Master must notify each trust which has as a trustee to whom the order or conviction relates, of the order or conviction.

(1H) (a) The Master must establish and maintain in the prescribed manner a public register of persons who are disqualified from serving as a trustee, in terms of an order of a court pursuant to this Act or any other law.

(b) The prescribed requirements referred to in paragraph (a) must be prescribed after consultation with the Minister of Finance and the Financial Intelligence Centre, established by section 2 of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001).”.

“Trust Filing Season: Form and System Changes to be introduced from 23 June 2023”



Keep up-to-date


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.



Before end Feb

- Requires legally required documents to be complete, accurate and kept up to date in a real-time fashion. To perform this function manually, possibly relying on others to provide you with same will be a time-consuming, costly, risky approach.



SARS warning 2025
- “accurate and
honest”

ITR12T - DECLARATION

- ✧ The representative taxpayer obliged to ensure that complete and accurate disclosure is made of all relevant information required on the Income Tax Return for Trusts.
- ✧ Misrepresentation, neglect, or omission to furnish such information or furnishing false information may result in penalties and/or additional tax assessments (together with interest) and/or prosecution.

After completion of the return, read the declaration on the front page of the return. I declare that:

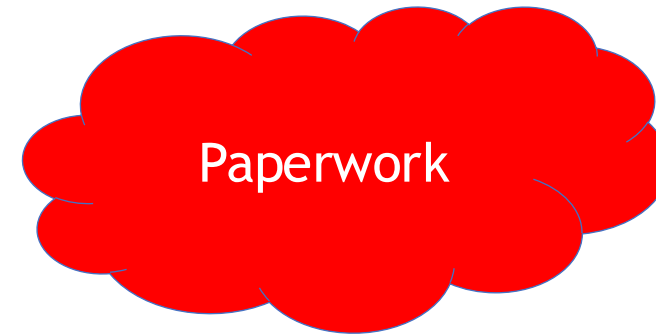
- ✧ I am the duly appointed Representative of the Trust
- ✧ The information furnished in this return is to the best of my knowledge both true and correct
- ✧ I have disclosed the gross amounts of all income received and / or accrued to this Trust during the period covered by this return
- ✧ I have the necessary financial records and supporting schedules to support all declarations on this return which I will retain for audit purposes



TRUST VERIFICATION REQUESTS

SARS focus areas

- Foreign investments and foreign tax credits
- Rental Properties
- Assessment of:
 - Trade test (bona fide trade)
 - Losses
 - Trust expenses - direct expenses, careful about apportionment
 - Provisional tax overpayments or tax refund positions
 - Beneficiary information
 - Trust bank account information and transactions
 - Tax certificates (issued and received)
 - Detailed tax computation
 - Comprehensive detail of trust funding - loan agreements and resolutions - Attribution rules and Section 7C



Rental properties info

- Number of properties owned and let, rental income compared for years, how many months let
- Calculations of CGT for sold properties
- General ledger accounts - rental income and expenses
- Copies of rental agreements/lease agreements/rental statements per property
- Reasons for rental income decreasing with supporting documents
- Confirmation that rental charged was at market-related rates; if lower provide reasons
- Properties rented out to connected or related persons?
- Supporting documents for calculation for provision for bad debts
 - Resolutions and/or minutes relating to bad debt write-off decisions

Trust expenses

- General ledger accounts for 3 highest expenses (excluding purchases and employee costs) OR for expenses that exceed income by 50% or more
 - Invoices and any relevant supporting documentation of the largest three expenses claimed for tax purposes
- Confirmation that all expenses claimed were in the production of income and not of a capital nature

Bank account information and transactions

- List of bank accounts, including name of bank, and bank account numbers of trust.
 - Bank statements for the year

A red, cloud-like shape with a blue outline, containing the text "Section 10 TPCA".

Section 10
TPCA

Questions?