

# HOW TO COMPLETE THE RETURN OF INCOME: TRUST (IT12TR)

## 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 18 September 2009 if you submit manually. If, however, you submit your return electronically, the submission date is 20 November 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 trust registration number.**
  - **The date of registration** at the Masters Office.
  - **Particulars of the trust** (name, address, contact details, trust type, income / capital rights, etc.)
  - **Banking Details.**
  - **Financial information relating to income.** (If no income was received, the field must be complete with a 0 and the applicable profit source code. Refer to the individual section 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:** 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 a registered eFiler 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

- For trust type, mark the applicable block with an "X" to enable SARS to correctly code the provisional tax status of the trust, by selecting either:
  - o **Special Type A** – a trust that has been solely created for the benefit of a person that suffers from a defined mental illness as defined by section 1 of the Mental Health Care Act, 2002 (Act No.17 of 2002). or a serious physical disability.
  - o **Special Type B** – a trust that has been solely created for the benefit of persons who are relatives of the deceased person that created the trust in terms of his / her will.
  - o **Inter Vivos** – a trust set up during the lifetime of a person.
  - o **Testamentary** – a trust set up in terms of the will of a person and which comes into effect after his / her death.
- For Income / Capital rights mark the applicable block with an "X" by selecting either:
  - o **Vested** – the amount of income / capital distributed belongs to the beneficiary.
  - o **Discretionary** – beneficiaries are not entitled to any income / capital unless the trustees decide to make some distribution to the beneficiaries.
  - o **Combination** – is a combination of the two selections mentioned above.

### PARTICULARS OF REPRESENTATIVE TAXPAYER

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

### BANK ACCOUNT DETAILS

- 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.

**Please 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.

### TAX PRACTITIONER DETAILS

- 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 2009 on the SARS website [www.sars.gov.za](http://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 2009 available on the SARS website at [www.sars.gov.za](http://www.sars.gov.za).
  - If no remuneration income was received by the trust, indicate the amount as 0 and complete 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 3611.
  - If no annuity income was received by the trust, indicate the amount as 0 and complete 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 4201.
  - If no local interest income was received by the trust, indicate the amount as 0 and complete 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 4218.
  - If no foreign income was received by the trust, indicate the amount as 0 and complete 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 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 foreign dividend must be noted. If the election is made to be taxed on the net foreign dividend, the "Y" block to the question "Do you elect to be taxed on net foreign dividend? (Applicable i.r.o. 2007 and prior years)" relating to the Foreign Tax Credits section, 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 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 complete 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 this will be programmatically applied by SARS during the assessment process. The inclusion rate for special trust 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 complete 4250 as the source code.

- **FOREIGN CAPITAL GAIN / LOSS**

- o The same procedure as for local capital gain / loss must be applied in determining the amounts to be declared.
- o The source that will apply here is 4252 in respect of a gain and 4253 in respect of a loss.
- o If no foreign capital gain income was received by the trust, indicate the amount as 0 and complete 4252 as the source code.

- **OTHER LOCAL INCOME (EXCLUDING RENTAL, BUSINESS, TRADE AND FARMING)**

- o In this section any other income not specifically addressed in this return must be declared.

**Please note:** 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.

- o The source code that will apply here must be obtained from the Source Code Booklet 2009 available on the SARS website [www.sars.gov.za](http://www.sars.gov.za).
- o If no other income was received by the trust, indicate the amount as 0 and complete 4214 as the source code.

- **TOTAL TAXABLE FOREIGN INCOME (EXCLUDING INTEREST, DIVIDENDS, CAPITAL GAINS AND FARMING)**

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

**Please note:** 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.

- o The source code that will apply here must be obtained from the Source Code Booklet 2009 available on the SARS website [www.sars.gov.za](http://www.sars.gov.za).
- o If no total taxable foreign income was received by the trust, indicate the amount as 0 and complete 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:** 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 the IRP5/IT3(a) certificates. All the requested information in this section in respect of certificates received must be declared.
  - o If only one IRP5/IT3(a) certificate was received, only the first section must be completed. The IRP5/IT3(a) certificate number which is located in the top right hand corner of the certificate, must be completed in the space provided. If a duplicate certificate was issued the certificate will carry two certificate numbers. The number that must be completed is the one listed next to the original certificate number.
  - o The PAYE reference number is located on the top left hand corner of the IRP5/IT3(a) certificate, and will always start with a "7".
  - o The gross income amount is next to source code 3699 on the IRP5/IT3(a), 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:** 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 example of proof of payment that will be accepted, if requested, in respect of foreign taxes paid:
  - o Where foreign tax has been withheld at the source – the original documentation issued by the applicable institution.
  - o Where foreign tax has not been withheld at the source – an assessment or receipt issued by the relevant tax authority.

## ELECTION TO BE TAXED ON NET FOREIGN DIVIDENDS (Only applicable i.r.o 2007 and prior years)

- If the trust elects to be taxed on the net foreign dividends, the appropriate block must be marked with and “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 completed. If the trust does not have any local or foreign assets and / or liabilities, a 0 must be completed next to the line items that refer to the total amounts.

## LOCAL BUSINESS AND TRADING INCOME (INCLUDING RENTAL)

- 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 Booklet 2009 available on the SARS website [www.sars.gov.za](http://www.sars.gov.za) must be used to determine the applicable source code that must be completed.
- If no local business and trading income were received by the trust, indicate the amount as 0 and complete 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](http://www.sars.gov.za).

## INCOME FROM FARMING OPERATIONS

- Did the trust partake in farming operations? If yes, the number of partnerships must be indicated on the return. The IT12TR-I schedule, which is the IT48V, in respect of each partnership must also be completed and attached to the return, otherwise the return will be considered incomplete and will be returned to the taxpayer for proper completion. The IT12TR-I can be obtained on the SARS website [www.sarsefiling.co.za](http://www.sarsefiling.co.za).

- 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, recoupments 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 of farming property will, for example, not constitute farming income.
- The assist in the determination of the farming profit or loss of the trust, the Farming section in the Comprehensive ITR12 Guide, available on the SARS website [www.sars.gov.za](http://www.sars.gov.za) can be utilised.

**Please note:** *The equalized rate selection however only applies to individuals and cannot therefore be utilized for purposes of a trust.*

- The source code that will apply here must be obtained from the Source Code Booklet 2009 available on the SARS website [www.sars.gov.za](http://www.sars.gov.za).
- If no farming income was received by the trust, do not indicate the amount as 0 and do not complete the source code, this section must be left blank.

## HOW TO OBTAIN A RETURN

- Register online on [www.sarsefiling.co.za](http://www.sarsefiling.co.za) to electronically access and submit the return; or
- Download the forms on [http://www.sarsefiling.co.za/Forms\\_Guides.aspx](http://www.sarsefiling.co.za/Forms_Guides.aspx).
- Phone the SARS Call Centre at 0800 00 SARS (7277);
- Approach your local SARS Branch Office.

## HOW TO SUBMIT A RETURN

### ELECTRONICALLY

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

### DROP OFF

- All SARS Branch Offices have drop boxes where the completed return can be deposited.

### POST

- Post the completed return to your nearest SARS Branch Office.