



South African Revenue Service

Dear Stakeholders

RE: CLARIFICATION OF CERTAIN MATTERS PERTAINING TO THE COMPLETION OF THE TRUST INCOME TAX RETURN (ITR12T)

It has come to SARS' attention that there may be uncertainty on how to complete certain sections of the Trust income tax return (ITR12T) and submit requested information.

The purpose of this notice is to address these common issues, which may have been communicated during meetings and/or received *via* e-mail and, furthermore, to provide clarity and guidance on issues that have been raised regarding the completion of the ITR12T to make it easier for taxpayers and traders to comply with their obligations.

SARS takes note of the issues and will endeavour to update the Comprehensive Guide to the Income Tax Return for Trusts (Guide) where applicable, which may also include other improvements not necessarily raised by stakeholders and/or other interested parties.

For ease of reference, the following matters are highlighted:

- What format, information, and supporting documents are required with reference to Beneficial Ownership;
- The nature of minutes: are all minutes required to be submitted; and
- Capturing persons' details while acting in multiple capacities.

Beneficial Ownership

The Inter-Departmental Committee Beneficial Ownership and Transparency (IDC-BOT) program aims to identify beneficial owners of Trusts who may gain financially from the proceeds of the Trust. SARS' aim is to record all beneficial owners of registered Trusts in order to comply with the Financial Action Task Force (FATF) requirements. In this regard, certain information must be submitted *via* e-filing, i.e., a copy of the Trust instrument, Letters of Authority, *etc.* It is submitted that the Guide may not contain sufficient guidance as to what "additional documents" are required in this regard.

For purposes of this notice, these documents may include, but are not necessarily limited to, the following:

- An organogram, illustrative, or schematic diagram depicting effective control and how the affairs of the Trust relate to other entities (interest in other entities, i.e., ownership structure in the event of entity-layering);
- Excel spreadsheet containing the above information; or
- Such other document, which will elaborate on Beneficial Ownership in relation to the Trust.

With regards to the capture of beneficial ownership information, it is mandatory for the current year's return that at least one document be submitted that relates to beneficial ownership information. In the event there are more than 20 beneficiary owners, the taxpayer must upload a supporting document that reflects the additional beneficiary owner(s).

Nature of minutes

Concerns have been raised that it is not necessary to submit all resolutions and minutes since this will be time-consuming and may not necessarily be relevant to SARS. It is further submitted that the Guide may not contain sufficient guidance as to what "minutes" are required in this regard. For purposes of this notice, SARS wishes to give guidance as follows:

- All minutes, excluding those dealing with internal trustee governance arrangements and/or administrative matters, must be submitted.

Kindly take note that the guidance in this regard gives preference to any other contradictory comments and/or communication that may have been communicated during any meeting and/or *via* e-mail.

SARS takes note of the issues and will endeavour to update the Comprehensive Guide to the Income Tax Return for Trusts where applicable.

Capturing persons' details

It has also been submitted that instances may arise where the same person could be the founder, trustee, and/or beneficiary. The question has been asked whether such a person's details must be captured as such for each capacity. In this regard, SARS wishes to advise that this process will only be required in the first year of submission (2023). The information will be prepopulated in future returns with an edit function to allow for amendments to the beneficial ownership information.

Sincerely,

**ISSUED ON BEHALF OF THE COMMISSIONER FOR THE SOUTH AFRICAN REVENUE
SERVICE
August 2023**