

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

## INTRODUCTION

This guide is designed to help you complete an income tax return for trusts (IT12TR) accurately. For further assistance visit your local SARS branch or contact the SARS Contact Centre on 0800 00 SARS (7277).

For the 2010 year of assessment, the following dates apply for submission of income tax returns:

- Postal submission or submissions deposited into a drop box at any SARS branch - 30 September 2010; and
- Electronic submission - 26 November 2010.

## COMPLETING THE RETURN

The IT12TR return contains existing data printed in pink. To correct or update information, write over the pink text in black ink and capital letters.

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 are not applicable.

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 sections of the return must be completed. An 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/sections on the return are mandatory:

- **Signature:** The tax return is a legally binding declaration to identify all income received/accrued and all income taxable in the hands of the trust. An unsigned return is therefore of no value.
- **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 Master's Office.
- **Particulars of the trust,** including the following details:
  - Name of trust;
  - Postal address;
  - Physical address;
  - Contact telephone numbers;
  - Trust type; and
  - Income/capital rights.
- Bank account details (if applicable).
- Particulars of representative taxpayer, including the following details:
  - Surname and initials;
  - Contact telephone numbers;
  - *Domicilium Citandi Et Executandi* (address for legal purposes).
- **Tax practitioner details (if applicable).**
- **Income received and/or accrued:**
  - Main income source code; and
  - Source code of each applicable income source

- Income from partnership farming operations (if applicable):
  - Partnership name; and
  - Partner's information for share distribution.

## 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; and
- Particulars of assets and liabilities.

Although the information above will be required to complete the income tax return, NO documentation (other than that which has been requested specifically) must be submitted with the return. All documentation, however, must be retained by the taxpayer for a period of five years after submission of the return.

Where the current ITR12TR return does not reflect the necessary fields for the declaration of income or the provision of a specific deduction in the current year of assessment (which might be applicable to a previous year of assessment), the relevant income/deduction must be shown under "Other" in the applicable section of the return. A schedule must be prepared based on the information indicated under "Other" and retained for a period of five years after the date of the submission of the return, to be available should SARS require it.

## COMPLETION OF THE RETURN

### SIGNATURE OF THE REPRESENTATIVE TAXPAYER

The representative taxpayer is obliged to ensure that complete and accurate disclosure is made of all relevant information as required on the income tax return. Misrepresentation, neglect or omission to furnish such information, or furnishing false information, is liable to penalties and/or additional tax 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.

### DATE OF DECLARATION

Complete the date of declaration of the income tax return in the blocks provided.

### DETAILS RELATING TO THE TRUST

Ensure that the following details are completed in the blocks provided:

- Year of assessment;
- Income tax reference number;
- Trust registration number; and
- Date of registration at the Master's Office.

### PARTICULARS OF THE TRUST

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

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:

- **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.
- **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.

**Please note:** In his Budget Review of 1998, the Minister of Finance announced the introduction of separate rates of tax applicable to trusts. These rates of tax are, however, not applicable to Special Trusts which are taxable at the rates applicable to persons other than companies or trusts.

- **Inter Vivos** – a trust set up during the lifetime of a person.
- **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:

- **Vested** – the amount of income/capital distributed belongs to the beneficiary.
- **Discretionary** – beneficiaries are not entitled to any income/capital unless the trustees decide to make some distribution to the beneficiaries.
- **Combination** – is a combination of the two selections mentioned above.

## PARTICULARS OF REPRESENTATIVE TAXPAYER

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

### BANK ACCOUNT DETAILS

Without accurate bank account 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, at 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 bank account details must be provided in order to facilitate a refund. Refunds will not 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 2010 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 listed below.

### 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 2010 available on the SARS website [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 income tax 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 relates to a loss.
- In the declaration of the taxable amount, the option to elect to be taxed on foreign dividends must be noted. If the election is made to be taxed on the net foreign dividend, the "Y" block to the following question in the in the Foreign Tax Credits section must be marked with an "X":
- "Do you elect to be taxed on net foreign dividends?"
- This also means that the amount declared as taxable income must be representative of the amount after the setting off of any withholding tax. Should this option to set off any withholding tax be taken, the withholding tax will not qualify as a deduction during the assessment process.
- 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 is applicable here is **4250** for a gain and **4251** for a loss
- If there was no local capital gain by the trust, indicate the amount as 0 and complete **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 code that is applicable here is **4252** for a gain and **4253** for a loss.

If there was no foreign capital gain by the trust, indicate the amount as 0 and complete **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:** Rental and trading income must be declared in the **Local business and trading income (including rental)** section of the return. Farming income must be declared in the **Income from farming operations (IT48)** section.

The source code that will apply here must be obtained from the Source Code Booklet 2010 available on the SARS website [www.sars.gov.za](http://www.sars.gov.za).

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)

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

Please note: Although financial statements drawn up in another currency will be accepted as substantiating documentation, the amounts declared must be translated to the currency of the Republic of South Africa if requested by SARS.

The source code that will apply here must be obtained from the Source Code Booklet 2010 available on the SARS website [www.sars.gov.za](http://www.sars.gov.za).

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 RANDES 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 information relating to IRP5/IT3(a) certificates. All the requested information in this section in respect of certificates received must be declared.

- 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.
- 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".
- 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.
- The PAYE amount is next to source code **4102** on the IRP5/IT3(a) in the section of the certificate that deals with tax withheld.

### FOREIGN TAX CREDITS

In this section of the return provision is made for reflecting amounts in RANDES and CENTS.

Please note: Only the amounts that directly relate to the taxable income of the trust must be reflected in this section.

The following amounts of withholding taxes 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 interest;
- Foreign dividends;
- Foreign capital gains; and
- Other foreign income.

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

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

### Proof of payment of foreign taxes

If requested, the following documents will be accepted as of proof of payment of foreign taxes:

- Where foreign tax has been withheld at the source: The original documentation issued by the applicable institution.
- 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

- If the trust elects to be taxed on the net foreign dividends, the appropriate block must be marked with an "X". Also refer to the paragraph dealing with foreign dividends in the Income received and/or accrued 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. Use the financial statements to complete the applicable line items in this statement per asset and/or liability type. For foreign assets and liabilities, only the aggregate amounts 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 for the total amounts.

## LOCAL BUSINESS AND TRADING INCOME (INCLUDING RENTAL)

Use the financial statements to complete the applicable line items in this schedule. The following amounts at the end of this section must be completed:

- Taxable income available for distribution;
- Taxable amount in terms of section 7/the amount vested in the beneficiary; and
- The amount taxable in the trust.

The Source Code Booklet 2010 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.

If the question relating to mining activities is affirmative, the necessary schedules 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

If the trust did partake in farming partnership(s), the number of partnerships must be indicated on the return. The IT12TR-I schedule, which is the IT48V and will be attached to the return, must be completed for each partnership and must be submitted together with the IT12TR return. If these schedules are not attached to the return, the return will be considered as incomplete and will be returned to the taxpayer 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 the following:

- 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.

To assist in the calculation of the farming profit or loss of the trust, refer to the **Farming** section in the Comprehensive ITR12 Guide, available on the SARS website [www.sars.gov.za](http://www.sars.gov.za).

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

The applicable source code must be obtained from the Source Code Booklet 2010 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

You can obtain your IT12TR return via any of the following channels:

- Register online at [www.sarsefiling.co.za](http://www.sarsefiling.co.za) to access and submit the return electronically;
- Phone the SARS Contact Centre on **0800 00 SARS (7277)**; or
- Request a return by visiting your local SARS branch.

## HOW TO SUBMIT A RETURN

### ELECTRONICALLY

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

### DROP OFF

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

### POST

Post the completed return to your nearest SARS branch.

