



South African Revenue Service

Dear Valued Stakeholder,

**RE: AWARENESS CAMPAIGN // REGISTRATION OF TRUSTS FOR TAX PURPOSES**

SARS has embarked on a path to rebuild its organisational capability and restore institutional integrity. In line with SARS' Vision 2024 and beyond, we highlight the following:

- *Higher Purpose:* Enabling the government to build a capable state and foster sustainable economic and social development that serves the wellbeing of all South Africans.
- *Vision 2024:* A smart, modern SARS with unquestionable integrity that can be trusted and admired.
- *Strategic Intent:* To develop a tax and customs system based on Voluntary Compliance.

To give effect to our Strategic Intent, SARS has developed *nine (9) Strategic Objectives* ("SOs"). We would like to highlight the following three SOs for purposes of this campaign:

- SO 2: *Make it easy for taxpayers and traders to comply with their obligations.*
- SO 3: *Detect taxpayers and traders who do not comply, and make non-compliance hard and costly.*
- SO 8: *Work with and through stakeholders to improve the tax ecosystem.*

SARS' data analysis revealed a lag of two and a half years between the registration of a Trust at the Master of the High Court and registration at SARS for tax purposes.

Trusts are used as estate and business planning tools. Trustees of Trusts may engage the services of tax practitioners who are responsible for interaction with SARS on behalf of the Trust. These representatives may complete Trust returns, submit objections, and interact with SARS on all tax related matters. In addition, trustees may also be assisted, advised, and represented by mandated legal, accounting and tax professionals who specialise in Trust formation and structuring, as well as advising on the legal and tax implications of Trusts. Irrespective of this assistance, there are unfortunately trustees who are not fully aware of their fiduciary duties and responsibilities.

SARS often receives queries from trustees or other persons who are involved with matters relating to Trusts wanting to know whether Trusts should be registered for tax purposes.

In terms of Section 25 of the Tax Administration Act of 2011 (TAA) read with section 66 of the Income Tax Act, No. 58 of 1962 (ITA) the Commissioner must annually give public notice of the persons who are required by the Commissioner to furnish returns for the assessment of normal tax within the period prescribed in that notice. Section 67(1) of the ITA states that every person who at any time becomes liable for any normal tax or who becomes liable to submit any return contemplated in section 66 must apply to the Commissioner to be registered as a taxpayer in accordance with Chapter 3 of the TAA (*emphasis added*).

With reference to the 2023 year of assessment, paragraph 2 of the Schedule to Notice 3540 published in the Government Gazette on 14 June 2023 deals with persons who have to submit income tax returns.

Paragraph 2(b) requires every Trust that was a resident during the 2023 year of assessment to submit a return (*emphasis added*). The Trust's economic activity or state of dormancy has no bearing on the requirement to submit a return. The only requirement is that the Trust is a *resident*.

Paragraph 2(c) requires every company, Trust, or other juristic person, which was not a resident during the 2023 year of assessment, that:

- carried on a trade through a Permanent Establishment in South Africa;
  - derived income from a source in South Africa; or
  - derived any capital gain or capital loss to which the Eighth Schedule to the ITA applies,
- to submit a return (*emphasis added*).

SARS is aware of various non-registered Trusts that are so-called dormant or where no income-producing activities are carried out, but that own assets, for example, shares in business entities, primary residences, lifestyle assets or vacant land. SARS is also aware of the fact that many Trusts are not preparing financial statements, for example, in which assets and related settlements, donations, or dispositions by individuals are disclosed.

In line with the SOs referred to above, SARS kindly requests that you bring this campaign communique to the attention of your members and to urge them, should they act as trustee, business advisors, or render any other professional service to any Trust or related party, and they become aware of non-compliance as envisaged herein, to take measures to ensure *fiscal* compliance.

In addition, all representatives are requested to update Trust contact and other details (including the representative's e-mail address), on the SARS system, submit all outstanding returns as soon as possible and settle outstanding Trust debt.

With reference to updating Trust contact and other details (including the representative's e-mail address), please be guided by SARS' RAV01 External Guide on how to complete the registration, amendments, and verification form (RAV01), which can be found on SARS' website. To access the External Guide please use the following web-address:

<https://www.sars.gov.za/gen-reg-01-g04-how-to-complete-the-registration-amendments-and-verification-form-rav01-external-guide/>

Finally, we would like to extend our gratitude towards those Trusts, trustees and beneficiaries who are tax compliant.

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