IT12TR

Information on Income Tax

2006

SARS
At Your Service

RENDERING OF RETURN

This return must be filled in, in full. If any part of the return is not completed, it will be rejected and sent back for thorough completion.

- The return of the trust must be rendered on the date as indicated on the return.
- If you are unable to render the return within the prescribed period, you must apply for extension on the SARS website, www.sars.gov.za or submit a written request to your local SARS office.
- If you have already rendered a return for this year, return this form stating the Income Tax reference number and SARS office to which you sent that return.
- If there is insufficient space for any item on the return, a separate schedule giving the required details must be attached to the return.
- If you have received a return, it must be completed and rendered, irrespective of whether the trust is dormant or not in receipt of income.
- Do not include any payments or correspondence, not relating to this return, with the return.

GENERAL

The information in this brochure will provide clarity as to the information required for the correct completion of the return. Your attention is also drawn to the Practice Notes and Interpretation Notes issued by the Commissioner for the South African Revenue Service.

NOTE:
The schedules / separate sheets furnished by the trust must be numbered so as to correspond to the return.

SUBMISSION OF FINANCIAL STATEMENTS

This return must be supported by the following documents:

- A detailed income statement / administration account; and
- Additional information as required by this information brochure, on separate, evenly numbered schedules.

LIABILITY FOR PROVISIONAL TAX

Any trust which derives income from sources other than remuneration (e.g. business, farming, interest and rent) is regarded as a provisional taxpayer and must register as such with the local SARS office within 30 days after the trust has become a provisional taxpayer.

Failure to register as a provisional taxpayer may lead to the imposition of penalties and interest on underpayment of provisional tax.

OBJECTIONS AND APPEALS

Any objection to an assessment must be in writing, specifying in detail the grounds upon which it is made and must reach the SARS office shown on the assessment notice within 30 days after the date of the assessment. Note must be taken of the rules governing objections and appeals in terms of Sections 107A and 107B of the Income Tax Act (refer to the SARS website www.sars.gov.za).

If your objection is disallowed or if a reduced assessment is issued as a result of an objection allowed only in part, and you are not satisfied with the reduced assessment, you may appeal to the Income Tax Special Court. Any notice of appeal must be in writing, must specify in detail the grounds upon which it is made and must reach the SARS office shown on the assessment notice within 30 days from the date of notice of the disallowance / partial disallowance of the objection.

The obligation to pay tax and / or interest is not suspended by an objection or an appeal.

PART 1: COMPLETION OF RETURN

It is incumbent upon the taxpayer to ensure that an accurate and full disclosure of all required and relevant information is made in the income tax return. In addition to possible prosecution and the imposition of penalties prescribed by the Income Tax Act for misrepresentation, neglect or omission to furnish, or furnishing false information, additional assessments (together with interest), may be raised after the expiry date of three years from the date of assessment. To avoid such occurrences and to facilitate a correct assessment and an efficient income tax system, it is in everyone's interest that information furnished in the income tax return be correct and complete.

REGISTERED PARTICULARS OF THE TRUST

Complete the white blocks only where particulars have changed or have not been printed in the shaded areas.

TRUST TYPE:

Special trust type A means a trust created solely for the benefit of a person who suffers from -

- any illness as defined in section 1 of the Mental Health Act; or
- any serious physical disability, where such illness or disability incapacitates such person from earning sufficient income for the maintenance of such person, provided that such trust shall not be a special trust in respect of the years of assessment ending on or after the date of such persons death. Approval for classification as a special trust type A must be obtained from SARS Head Office, Legal division.

Special trust type B means a trust created -

- by or in terms of the will of a deceased person, solely for the benefit of beneficiaries who are relatives in relation to that deceased person and who are alive on the date of death of that deceased person (including any beneficiary who has been conceived but not yet born on that date), where the youngest of those beneficiaries is, on the last day of the year of assessment of that trust, under the age of 21 years.

An **inter vivos trust** is a trust which is created by way of a trust deed during the lifetime of the founder of the trust.
A **testamentary trust** is a trust which is created after the death of a person who provides for the creation of a trust in his / her will.
An **exempt trust** is a trust which has been approved by the Commissioner to be exempt from the payment of income tax in terms of one of the sub sections of section 10 of the Act.

INCOME RIGHTS

Vested: There is a vested right to the income of the trust if the trust deed provides that all the income of the trust accrues to / must be distributed to / accumulates for the benefit of a certain beneficiary(ies) of the trust. Where a beneficiary of a trust has a vested right to the capital and no other person obtains a vested right to the income of the trust during a year of assessment, such person will also have a vested right to the income.

Discretionary rights: There is a discretionary right to the income of the trust if the trust deed provides that the trustee(s) of the trust may exercise his / their discretion to distribute some (or all) of the income of the trust to a beneficiary(ies) of the trust.

Combination: There is a combination of rights if the trust deed provides that a certain percentage of the income of the trust accrues to / must be distributed to / accumulates for the benefit of a certain beneficiary(ies) of the trust and that the trustee(s) of the trust may exercise his / their discretion to distribute the remainder of the income (or part of it) to a beneficiary(ies) of the trust.

CHANGE OF ADDRESS DETAILS

In terms of Section 67 of the Income Tax Act you are obliged to notify SARS within a 60 day period of any change of address details in respect of the address used by the Commissioner for correspondence. Failure to do so could result in penalties being levied in terms of Section 75 of the Income Tax Act.

PARTICULARS OF BANK ACCOUNT

- These particulars must be furnished to enable SARS to transfer credit payments due to the trust directly into your account, thereby preventing the possibility of a cheque being stolen or cashed unlawfully.

- It is essential that the SARS office where the trust is on register be informed (in writing) of any change of these particulars.

PART 2: DECLARATION BY REPRESENTATIVE TAXPAYER

All the trustees of a trust are jointly responsible for the administration of the assets of the trust and will, therefore, be regarded as the representative taxpayers of the trust. However, one of the trustees usually accepts the responsibility for the income tax affairs of the trust. This part must be completed in full and signed by this person.

Your attention is drawn to the fact that this person is answerable for the doing of all such acts as are required to be done in terms of the provisions of the Act in respect of the trust and in the case of default, shall be liable to the penalties provided for in respect of any default.

PART 3: PARTICULARS OF OTHER TRUSTEES

If the space provided is not sufficient, a separate schedule with the requested details must be attached to page 11 of the return.

PART 4: SUMMARY OF THE INCOME TAXABLE IN THE TRUST

PART 4.1 MAIN INDUSTRY SOURCE CODE

This is the principal activity practised by the trust. Please refer to table below which is arranged alphabetically for ease of reference.

PART 4.2 MAIN SOURCE OF INCOME

This is the source of income from which the highest gross income is generated. This is not necessarily the principal activity practised.

Please refer to the source code booklet or the SARS website www.sars.gov.za in determining the main source of income.

DESCRIPTION	SOURCE CODE	DESCRIPTION	SOURCE CODE
Agencies and other services	34	Metal products (except machinery and equipment)	13
Agriculture, forestry and fishing	01	Mining and quarrying	02
Bricks, ceramics, glass, cement and similar products	11	Other manufacturing industries	18
Catering and accommodation	23	Paper, printing and publishing	08
Chemicals and chemical, rubber and plastic products	09	Personal and household services	32
Clothing and footwear	05	Recreation and cultural services	31
Coal and petroleum products	10	Research and scientific institutes	28
Construction	20	Retail trade (including mail order)	22
Educational services	27	Scientific, optical and similar equipment	17
Electricity, gas and water	19	Social and related community services	30
Employment (Director of a Company / Member of CC)	35	Specialised repair services	33
Financing, insurance, real estate and business services	25	Textiles	04
Food, drink and tobacco	03	Transport equipment (excl. vehicles, parts and accessories)	16
Leather, leather goods and fur (excl. footwear & clothing)	06	Transport, storage and communication	24
Long-term insurers	26	Vehicles, parts and accessories	15
Machinery and related items	14	Wholesale trade	21
Medical, dental and other health and veterinary services	29	Wood, wood-products and furniture	07
Metal	12		

PARTS 4.3 - 4.14 TAXABLE INCOME

This part constitutes a summary of the income taxable in the trust.

The amounts (pertaining to each source of income) as determined in “Determination of the taxable income of the trust” must be carried over to this part. The trust will be taxable on the net taxable income produced by the trust, after the amounts distributed to / vesting in the beneficiaries of the trust, as well as any amounts taxable in the hands of any other person in terms of the provisions of Section 7 of the Act, as well as Paragraph 80 of the Eighth Schedule to the Act, have been deducted from the taxable income of the trust.

PART 5: EMPLOYEES TAX CERTIFICATES AND RECEIPTS IN RESPECT OF FOREIGN TAX CREDITS

- The certificate numbers of all employees’ tax certificates issued to the trust, as well as the amounts of employees tax (PAYE) deducted from the gross income earned by the trust, must be furnished.
- The employees' tax certificate(s) must be attached to the return.
- The employees' tax already deducted by an employer / employers can only be taken into account if the employees’ tax certificate(s) is / are attached to the return of the trust.
- Proof of any foreign tax credits must be attached to the return.

NOTE:
Only amounts that relate to the taxable income of the trust will be considered as a deduction.

Did you pay any foreign taxes?

Claim the amount of foreign taxes paid in respect of foreign dividends, foreign interest, other foreign income or foreign CGT (Capital gain) transactions in section 4 of the return next to the applicable codes 4110, 4112, 4113 or 4114.

NOTE:
(i) Should the trust have elected to be taxed on net foreign dividends, the claim in respect of foreign taxes paid on foreign dividends received will not ve considered.

(ii) The claim in respect of foreign taxes paid will be limited in terms of Section 6*quat* of the Income Tax Act, to the amount of South African tax payable in relation to the foreign income received, by applying the following formula:

$$\frac{\text{Foreign Taxable Income x Normal Tax Payable}}{\text{Total Taxable Income}}$$

The taxes which are attributable to foreign taxable income will on assessment, in aggregate, be limited to the amount of normal tax due in respect of such income.

What proof will be accepted as proof of payment of foreign taxes?

Proof of payment of foreign taxes will include the following:

- Where foreign taxes have been withheld at source, the original documentation issued by the applicable institution.
- Where foreign taxes have not been withheld at source, an assessment or receipt issued by the relevant tax authority.

For further information, contact your local SARS office, or visit the SARS website (www.sars.gov.za).

PART 6: INCOME FOR DISTRIBUTION

INCOME TAXABLE IN THE HANDS OF THE BENEFICIARY(IES)

This part provides for three beneficiaries. If the space is insufficient provide details of other beneficiaries on a separate sheet and attach to the return. The particulars of the beneficiaries as requested as well as the amounts distributed to them / vesting in them and determined to be taxable, must be declared as follows:

- Local Taxable Income (excluding local interest and capital gain);
- Total taxable foreign income (excluding interest, foreign dividends and capital gains / losses and foreign farming activities);
- Interest - local;
- Interest - foreign;
- Foreign dividends;
- Capital gains / losses - local and foreign separately;
- Exempt income; and
- All foreign tax credits (without right to recovery) apportioned in relation to the amounts distributed to / vested in the beneficiaries, must be reflected in the return.

INCOME TAXABLE IN THE HANDS OF ANY OTHER PERSON(S). (Income taxable in the hands of other persons in terms of the provisions of section 7 and paragraph 80 of the Eighth Schedule to the Income Tax Act)

This part provides for one person. If the space is insufficient provide details of other persons on a separate sheet and attach to the return. The particulars of the persons as requested, as well as the amounts distributed to them / vesting in them and determined to be taxable and must be declared as follows:

- Local taxable income (excluding local interest and capital gain);
- Total taxable foreign income (excluding interest, foreign dividends, capital gains / losses and foreign farming activities);
- Interest - local;
- Interest - foreign;
- Foreign dividends;
- Capital gains / losses - local and foreign separately;
- The total amount of all other income (excluding exempt income and capital receipts) distributed to / vesting in a beneficiary; and
- All foreign tax credits (without right to recovery) apportioned in relation to the amounts distributed to other persons, must be reflected in the return.

PART 7: ALLOWANCES AND DEDUCTIONS CLAIMED

Reflect the amount claimed in respect of the allowances and deductions listed in this part, next to the applicable source codes.

SECTION 11A - Pre-trade expenditure or losses

A deduction will be allowed for qualifying expenses incurred before the commencement of a trade. The following requirements must be met for these pre-trade expenses to qualify as a deduction in terms of Section 11A.

- A trade must be carried on.
- The expenses must have been incurred before the commencement of that trade;
- The expenses must have been incurred in the preparation of that trade;
- The expenses must qualify as a deduction in terms of Section 11; and
- The expenses should not previously have been claimed or allowed as a deduction.

SECTION 11B - Research and development expenses

A deduction will be allowed for expenditure incurred in respect of research and development undertaken in the Republic, in the course of creating or attempting to create an intangible asset / intellectual property. The provision allows for the deduction of operating, or non-capital, expenditure incurred during a year of assessment, provided that:

- The expenditure is incurred in respect of research and development;
- It relates to devising, developing or creation of the intellectual property;
- Payment is made only for the discovery of new information; and
- The taxpayer retain full ownership and control of the research and development.

In addition, an allowance is granted (in terms of subsection (3)) in respect of the cost of any building, machinery or plant, implements, utensils and articles of a capital nature used for the purpose of research and development. The allowance is granted over a 4 year period, calculated as follows:

- 40% of the cost in the year that the asset is being used for the first time;
- 20% of the cost for each of the following three years.

SECTION 12H - Learnership agreements

A deduction will be considered where a registered learnership agreement is entered into with a learner in the course of any trade carried on by an employer. The deduction will be considered in respect of the registration and completion of such registered learnership agreement as defined in Section 12H of the Income Tax Act.

Where a registered learnership agreement or contract of apprenticeship is terminated prior to the completion of such agreement or contract as defined in Section 12H(5) of the Income Tax Act, the amount allowed as a deduction shall be deemed to have been recovered or recouped by the employer.

SECTION 13*quat* - Urban Development Zone

A deduction will be allowed as an allowance in respect of the cost of the erection, extension, addition or improvements of any commercial or residential building within an approved urban development zone, to be used solely for the purpose of that trade. The deduction will cease where the building ceases to be used solely for the purpose of trade, or it was sold. The allowable amount will be calculated as follows:

1. Refurbishment of a building - 20% straight-line depreciation allowance over a 5 year period (where the existing structural or exterior framework is preserved).

2. Construction of a new building - 17 year write-off period (20% in the first year and 5% per annum thereafter for the next 16 years).

No deduction shall be allowed under this section, unless a certificate from the municipality confirming that the building is located within an approved urban development zone within that municipality, is attached to the tax return for the year of assessment in which the deduction is claimed.

A deduction will also be allowed to first buyers who buy from a bona-fide developer. The first buyer, although not having incurred the actual cost of construction of refurbishment, could qualify for the tax incentive and be able to claim an allowance on a percentage of the purchase price, as prescribed in Section 13*quat*, which is deemed to be attributable to the developer's construction or refurbishment costs.

Where a building or part of a building is purchase from a developer the following will be required:

- The purchase price of that building or part thereof;
- The amount of the purchase price deemed to be the cost incurred in respect of subsection (3A); and
- A certificate from the developer confirming that the requirements in respect of Section 13*quat* have been met.

PART 8: FOREIGN DIVIDENDS

A foreign dividend means any dividend received by or which accrued to any person from a foreign company as defined in Section 9D of the Income Tax Act.

Section 10(1)(k)(ii) prescribes the circumstances under which foreign dividends could be exempt from tax.

PART 9: FOREIGN INCOME SCHEDULE

RESIDENCE BASIS OF TAXATION - DEFINING A RESIDENT

As far as natural persons are concerned, two rules will apply to define what a resident is.

The first rule is based on ordinarily residence and means that a person is a resident of South Africa, if his or her permanent home, to which he or she will normally return, is in South Africa.

The second rule is time based and a more objective rule. A person will be regarded to be a resident if:

- He has spent, during the current year of assessment as well as during each of the previous three years, more than 91 days per year of assessment in South Africa; and
- He has spent during the previous five years of assessment, in aggregate, more than 915 days in South Africa, in which case that person will be a resident with effect from the first day of that relevant year of assessment.

NOTE:
A portion of a day is regarded as a day.

Resident in respect of persons “other than natural persons”, means:

- A trust formed, incorporated or established in South Africa will always be a South African resident; and
- Trusts of which the place of effective management is in South Africa will be a South African resident.

Calculation of section 6*quat*

To enable SARS to calculate the credit amount allowable in respect of foreign tax paid on foreign income received during the current year of assessment, you need to calculate the taxable income / loss in respect of the following categories of income:

- Foreign trading income;
- Foreign services provided;
- Foreign annuities;
- Foreign Capital gains;

- Other foreign income (excluding investment income, capital gains and foreign farming activities); and
- Imputed income from a controlled foreign company.

Relief from double taxation

A South African resident is subject to normal tax on income derived worldwide (i.e. income derived from sources within and outside the Republic). However, any income which is derived by a resident from a foreign source may have been or may be subjected to tax in a foreign country, thus resulting in double taxation. Section 6*quat* of the Act grants relief from any potential double taxation, in that any foreign taxes payable in respect of income derived from a foreign source which is included in the taxable income of a resident may, subject to certain conditions, be allowed as a rebate against the normal tax payable in South Africa by that resident.

Conditions governing the granting of a rebate

The sum of foreign taxes payable may qualify for a rebate against the normal tax payable by a resident if certain conditions are met.

These conditions are -

- the taxes must be taxes payable on income (note that capital gains tax has been incorporated into the Act as it is regarded as a tax on income);
- the taxes have to be imposed in terms of the laws of a foreign country, whether it be at national, state, local or other level of government;
- the taxes should be proved to be payable, i.e. a legal obligation to pay must exist;
- the taxes must be payable without any right of recovery by any person (other than a right of recovery in terms of any entitlement to carry back losses arising during any year of assessment to a prior year of assessment); and
- the taxes ought to be payable in respect of amounts included in that resident's taxable income.

Qualifying amounts of income derived from foreign sources

In order to qualify for a rebate in terms of Section 6*quat* the foreign taxes must be payable in respect of any of the following types of income **derived from a foreign source** which has been included in the resident's taxable income:

(a) Income, such as professional service income, remuneration, interest, royalties, rentals, pensions, annuities, etc., but excluding foreign dividends [Section 6*quat* (1)(a)(i)];

(b) An amount equal to a proportionate amount of the net income of a foreign company that is expressly included in the income of a resident in terms of Section 9D [Section 6*quat* (1)(b)];

(c) Income derived by a resident in the form of foreign dividends [Section 6*quat* (1)(d)];

(d) A taxable capital gain derived by a resident from a foreign source [Section 6*quat* (1)(e)];

(e) Any amount dealt with in paragraphs (a) to (d) which has accrued to or has been received by a particular person, for example a trust, but which is deemed to be derived by another person (the resident) [Section 6*quat* (1)(f)(i) and (ii)];

(f) An amount dealt with in paragraphs (a) to (d), which forms part of the capital of a trust established in a foreign country which is regarded to be derived by a resident for either income tax or capital gains purposes [Section 6*quat* (1)(f)(iii)].

Limitation on the amount of the rebate

The amount of foreign taxes which qualify for the Section 6*quat* rebate is limited to a *pro rata* amount calculated in accordance with the following formula:

$$\frac{\text{Taxable income derived from all foreign sources (A)}}{\text{Total taxable income derived from all sources (B)}} \times \text{Normal tax payable on (B)}$$

The carry forward of an excess amount of foreign tax credits

Where the sum of foreign taxes payable exceeds the amount of the rebate, the excess amount may be carried forward to the immediately succeeding year of assessment, to rank as a foreign tax credit available for set off against the normal tax payable in that year of assessment.

Instances where no rebate is forthcoming

If a resident elects for the relief provided for in a double taxation agreement no additional relief will be granted in terms of Section 6*quat*.

A resident who derives income measured in a foreign currency must, in translating the taxable Income to Rand, make an election between either -

- The spot rate; or
- The average exchange rate for the relevant year of assessment..

The average exchange rates can be obtained from the SARS website www.sars.gov.za,<Forms>,<Income Tax>,<Average exchange rates for a year of assessment>.

PART 10: CAPITAL GAINS

Determining a capital gain or a capital loss

A Capital Gains Tax (CGT) event is triggered by the disposal of an asset. Unless such disposal or deemed disposal occurs, no gain or loss arises. CGT applies to all assets disposed of on or after 1 October 2001 (valuation date). Only the gain or loss accruing from 1 October 2001 to date of disposal will fall within the CGT regime.

- An **asset** is defined as widely as possible and includes any property of whatever nature and any interest therein.
- A **disposal** covers any event, act, forbearance or operation of law, which results in a creation, variation, transfer, or extinction of an asset. It also includes certain events treated as disposals, such as the change in the use of the asset.
- Once an asset is disposed of, the amount which is received, or which accrues to the seller of the asset, constitutes the **proceeds** from the disposal.
- The **base cost** of the asset is generally the expenditure actually incurred in acquiring the asset, together with expenditure directly related to its improvement and direct costs in respect of its acquisition and disposal and certain holding costs. The base cost does not include any amounts otherwise allowed as a deduction for income tax purposes.

What is the base cost of an asset held on 1 October 2001?

In order to exclude the portion of the gain relating to the period before 1 October 2001 any one of the following methods may be used:

- 20% of the proceeds upon realisation can be deemed to be the cost (no records, and market value cannot be determined); **OR**

- Market value of the asset as at 1 October 2001 (the "valuation date"); **OR**
- Time apportionment method.

The Act lays down various requirements that apply when the market value method is used:

Time limit for performing valuations

All valuations must have been done by 30 September 2004. Valuations should have been performed as if done on 1 October 2001.

Who may perform valuations?

The Act is not prescriptive and it is the responsibility of the person / entity, and the onus of substantiating a valuation rests with the person / entity.

Requirements for the submission of valuation certificates

Should the market valuation of base cost method be adopted a copy of the valuation certificate must be lodged with the relevant return of income when the asset is disposed of. Certain valuations must, however, be lodged sooner, with the first return of income required to be submitted after 30 September 2004. These categories of assets are set out in the table below.

Type of asset	Applies	Where market value exceeds
Intangible shares	Per asset	R1 million
Unlisted shares	All assets held by the shareholder in the company	R10 million
All other assets	Per asset	R10 million

Should you have lodged a valuation certificate with your return please indicate so by marking the "yes" block on page 6 of your return.

Loss and gain limitation rules

Certain rules, which are beyond the scope of this brochure, are in place to limit losses and gains when the market value is used. These rules prevent the creation of fictitious losses from inflated valuations and prevent hardship when assets are sold above market value on 1 October 2001, but below original cost.

Time apportionment method

This method may be used when a person / entity has records of the date of acquisition and the cost of the asset. The following formula is used to determine the time apportionment base cost of the asset:

$$\text{Original cost} + \left[\frac{\text{Gain x Period held before valuation date}}{\text{Period held before and after valuation date}}\right]$$

Improvements or additions made before 1 October 2001 are assumed to have taken place when the asset was acquired. The period before 1 October 2001 is limited to 20 years. Additions to an asset after valuation date are added to base cost (not apportioned).

NOTE:
Where no additions or improvements have taken place prior to valuation date, the 20-year limit does not apply.

More information can be obtained from the Comprehensive Guide to Capital Gains Tax (page 188 to 200) availabe on the SARS website www.sars.gov.za.

EXCLUSIONS

Primary residence exclusion (applies only to a Special Trust)

The first R1 million capital gain or loss in the case of a special trust may be disregarded for CGT purposes. In other words, where capital gain or loss exceeds R1 million, the excess would be subject to CGT.

In order for a residence to qualify as a primary residence -

- the interest must be held by a natural person or a special trust;
- that person, beneficiary or spouse of either such persons, must ordinarily reside therein as their main residence; and
- the residence must be used mainly for domestic purposes.

A primary residence includes the land upon which it is actually situated and may include other adjacent land which is used mainly for domestic or private purposes, in association with that residence. The total of all the land may, however, not exceed two hectares. This could also include unconsolidated adjacent land, provided that, upon disposal of the primary residence, any unconsolidated land is disposed of at the time and to the same person as the primary residence itself.

ANNUAL EXCLUSION

The annual exclusion of a special trust type A (as defined in Section 1 of the Income Tax Act) in respect of a year of assessment is R10 000. All other trusts, including special trust type B will **not qualify** for the annual exclusion.

NOTE:
The inclusion rate will be calculated by SARS.

TAX RELIEF

Paragraph 65 and 66 of the Eighth Schedule to the Income Tax Act makes provision for the election of tax relief in respect of involuntary disposals of assets or reinvestment in replacement assets, that were disposed of on or after 22 December 2003. For more information refer to the Explanatory Memoranda on the Revenue Laws Amendment Bill, 2003, available on the SARS website www.sars.gov.za.

INCLUSION RATE TO DETERMINE TAXABLE INCOME IN RESPECT OF CGT

Where a net capital gain for the current year of assessment has been determined, such amount is multiplied by the inclusion rate to determine the taxable capital gain, which is to be included in the taxable income for the year of assessment.

The inclusion rates to be used in arriving at the taxable capital gain are set out in the table below.

Type of taxpayer	Inclusion rate %	Statutory rate
Unit trusts	N/A	29
Special trusts A & B	25	18 - 40
Other trusts	50	40

Complete the Capital Gain Schedule by using the following main asset type source code table:

Discription of assets	SOURCE CODES Local assets	Foreign assets
Fixed / immoveable assets (e.g. land, buildings, mineral rights)........	6502	6530
LOSS: Fixed / immoveable assets (e.g. land, buildings, mineral rights)........	6503	6531
Primary residence (e.g. house, townhouse, flat, boathouse, caravan)........	6504	6532
LOSS: Primary residence (e.g. house, townhouse, flat, boathouse, caravan)........	6505	6533
Financial instruments - Listed (e.g. shares, units in unit trusts, bonds, futures, options)........	6506	6534
LOSS: Financial instruments - Listed (e.g. shares, units in unit trusts, bonds, futures, options)........	6507	6535
Financial instruments - Unlisted (e.g. shares, debentures, promissory notes, bonds, options, forward contracts, swaps, debt)........	6508	6536
LOSS: Financial instruments - Unlisted (e.g. shares, debentures, promissory notes, bonds, options, forward contracts, swaps, debt)........	6509	6537
Intangible assets (e.g. goodwill, trade marks, patents, copyrights, franchises, licences, fiduciary, usufructuary and other like interests)........	6510	6538
LOSS: Intangible assets (e.g. goodwill, trade marks, patents, copyrights, franchises, licences, fiduciary, usufructuary and other like interests)........	6511	6539
Foreign currency........	6512	N/A
LOSS: Foreign currency........	6513	N/A
Plant and machinery........	6514	6540
LOSS: Plant and machinery........	6515	6541
Other moveable property used for business purposes (e.g. aircrafts, boats, motor vehicles, office furniture and equipment)........	6516	6542
LOSS: Other moveable property used for business purposes (e.g. aircrafts, boats, motor vehicles, office furniture and equipment)........	6517	6543
Other moveable property not used for business purposes excluding personal use asset (e.g. Krugerrands, personal use boats < 10 metres and personal use aircraft < 450 kg)........	6518	6544
LOSS: Other moveable property not used for business purposes excluding personal use asset (e.g. Krugerrands, personal use boats < 10 metres and personal use aircraft < 450 kg)........	6519	6545

PART 11: PERSONAL SERVICE TRUST

- Mark the “Yes” or “No” blocks with an X.
- Indicate the valid number of the Labour Broker Exemption Certificate.
- Indicate the number of non-connected employees in the trust's service who are not connected persons in relation to the trust.

A connected person to a trust means -

- any beneficiary of the trust; and
- any connected person in relation to such beneficiary.

A personal service trust means any trust (other than a trust which is a labour broker) where any service rendered on behalf of that trust, to a client of that trust, is rendered personally by any person who is a connected person in relation to such trust, and -

- that person would be regarded as an officer or employee of such client, if such service was performed by that person directly to that client other than through the trust; or
- that person (or the trust) is subject to the control or supervision of the client as to the manner in which the duties are performed, or as to the hours during which the duties are performed or to be performed; or
- the amounts paid or payable in respect of that service consist of, or include, earnings of any description which are payable at regular daily, weekly, monthly or other intervals; or
- where more than 80% of the income of the trust derived during the year of assessment from the services rendered, consists of income received from one client of the trust.

A trust is not a personal service trust where the trust employs more than three full-time employees throughout the year of assessment, who are on a full-time basis engaged in the business of such trust of rendering such service, other than any employee who is a connected person in relation to that person or that trust.

Section 23(k) limits the deductions as follows:

No deduction shall in any case be made i.r.o. any expenses incurred by a personal service trust, other than any expense which constitutes an amount paid or payable to any employee of such trust for services rendered by such employee, which is or will be taken into account in the determination of the taxable income of such employee.

PART 14: DETERMINATION OF THE TAXABLE INCOME OF THE TRUST

(A) RECEIPTS AND ACCRUALS

All income / receipts, in cash or otherwise, received by / accrued to the trust during this year of assessment, must be declared in the return of the trust.

(B) REMUNERATION

Examples of income / accruals in respect of remuneration which must be included in the return of the trust:

- Receipts / accruals for services rendered / to be rendered, commission, incentive awards, tips and options to purchase shares.

(C) ANNUITIES

State the gross amount received by / accrued to the trust in respect of annuity income.

Income in respect of an annuity will only be regarded as the income of the trust if the trust was the purchaser of the annuity. If an employees tax certificate is issued in respect of such income, it must be issued in the name of the trust.

A trust does not qualify for any exemption in respect of the capital element of the annuity, since a contract between an insurer and a trust does not conform with the requirements of an “annuity contract" as defined in Section 10A of the Act.

(D) INTEREST

State the gross amount received by / accrued to the trust in respect of interest income.

The first R15 000 / R22 000 of the total amount of interest received by the trust will **not** be exempt from income tax, since this exemption only applies to natural persons.

The interest income of the trust may consist of the following:

- Interest from any interest-bearing entity;
- Interest on savings accounts, transmission accounts and / or fixed deposits and dividends / interest on fixed period shares / deposits made on or after 1 March 1990;
- Dividends from property trust - these dividends are taxed as interest;
- The interest content of a unit trust fund distribution.

A schedule containing the following details in respect of accruals / receipts of local and foreign interest must be attached to the return of the trust:

- Entity whereby money was invested;
- Type of investment;
- Amount invested;
- Amount of interest received by/accrued to the trust.

(E) SECTION 24J

An accrual basis of interest was introduced by Section 24J of the Income Tax Act, which recognises the spreading of interest on a day to day basis for tax purposes, where interest must be compounded at least on an annual basis. In respect of a trust, these provisions apply only to financial instruments which have a term exceeding one year (determined from the date of acquisition) and were acquired at a discount / premium or bear deferred interest.

A financial instrument which bears deferred interest is an instrument where stepped interest rates are applicable, or an instrument in terms of which all interest, calculated by applying a constant interest rate over the terms of the instrument, is not paid at regular intervals of 12 months or less.

It must be noted that the majority of commonly used financial instruments by most trusts will be excluded from the ambit of Section 24J as far as the accrual of interest is concerned. Instruments or investments excluded are inter alia:

- Savings accounts;
- Call accounts;
- 32 Day call accounts;
- Fixed deposits not exceeding one year; and
- Fixed deposits, the term of which is longer than one year but all the interest, calculated at a rate of interest which does not vary, is paid at least annually.

Interest has been defined for purposes of Section 24J and includes any related finance charges, discount receivable or premium payable in terms of, or in respect of, an instrument. For a holder of an instrument, which includes an investor in stock, the interest which will be taxable consists of the difference between the purchase price of the stock and the nominal value of the stock, as well as the amounts of all coupon payments receivable by the holder of the instrument.

The effect of the accrual basis is that the taxable interest is not based on the actual coupon receipts, but on an amount determined with reference to the Internal Rate of Return (IRR) of a financial instrument, based on the future cash flow determined on the date of acquisition of the financial instrument.

(F) RENTAL INCOME

State the total amount of rental income received by the trust and furnish the following information:

- If the trust entered into any lease agreement during this year of assessment, the following information must be provided:
  - Attach a copy of the lease agreement to the return of income;

- Indicate whether the parties to the contract can be regarded as “connected persons”;
- Indicate whether the rental income can be regarded as “market-related rental income”; and
- Indicate whether the asset(s) had previously belonged to the trustee(s) / beneficiary(ies) of the trust.

- If any property was let by the trust during this year of assessment, the following additional information must be provided:
  - State the initial purpose for which the property was acquired;
  - Did the initial purpose for which the property was acquired, change? If “yes”, furnish details (when, why, how);
  - Has the viability of the letting of the property been determined prior to the commencement of such activities? If “yes", furnish a copy of the calculations. If not, why are you of the opinion that this property was acquired for letting purposes, with a reasonable prospect of a profit;
  - Was the property let to the employer of any of the beneficiaries of the trust;
  - Was the property let to any connected person to the trust; and
  - If a rental loss was created, what would you regard as the main cause for the creation of such a loss?

- If a lease agreement, in terms of which the trust was the lessee of any moveable assets, was terminated during this year of assessment, the following information must be provided:
  - Furnish particulars of a property / asset and how it was dealt with on the termination of the lease contract;
  - Were the lease payments previously allowed as a deduction against the taxable income of the trust?

(G) BUSINESS INCOME

State the turnover of business activities carried on by the trust during this year of assessment.

(H) OTHER INCOME (NOT PREVIOUSLY DECLARED)

State the amount received by / accrued to the trust in respect of any source of income (excluding capital accruals / receipts and exempt income).

Furnish details in respect of the nature and amounts received from each entity in a separate schedule and attach to the return.

This part may, for example, include executor’s or similar fees received / accrued, royalties received / accrued and or honoraria received / accrued.

(I) EXEMPT INCOME

State the amount received by / accrued to the trust in respect of exempt income.

Furnish details in respect of the nature and amounts received from each entity on a separate schedule and attach to the return.

(J) TOTAL RECEIPTS AND ACCRUALS

Determine the sum of the total receipts / accruals (excluding farming activities) in respect of each source of income of the trust.

(K) FARMING INCOME

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, recoupment 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 in respect of farming property will, for example, not constitute farming income.

NOTE:
Income derived from foreign farming activities must be recorded separately. Refer to page 23 of this brochure.

PRIVATE CONSUMPTION

If livestock has been utilised for private consumption, an amount equal to the cost price of such livestock or produce must be included in the income.

LIVESTOCK SOLD ON ACCOUNT OF DROUGHT, STOCK DISEASE, ETC.

Furnish -

- the names and addresses of persons to whom you sold livestock and / or produce or to whom you gave livestock and / or produce in exchange;
- a description of the livestock or produce; and
- the amount received.

The proceeds in respect of the sale of livestock -

- on account of conditions of drought, stock disease or damage to grazing by fire or plague; or
- by reason of your participation in a livestock reduction scheme organised by the Government,

are taxable and must be declared as income.

The Act provides that, subject to certain conditions, you may choose to deduct the cost of livestock purchased in replacement, either:

- in the year of assessment during which you purchased such livestock; or
- in the year of assessment during which the original livestock was sold.

If you wish for the cost of livestock purchased in replacement of livestock sold under special conditions to be deducted in the year of sale (i.e. your assessment for that year will be reduced) you must notify SARS of your choice for the year in which the sale took place and furnish full particulars of the livestock sold and the reason for the sale. The concession will only be granted if you comply with the following conditions:

- You must replace livestock sold on account of drought or stock disease or damage to grazing by fire or plague within four years after the close of the year of assessment during which the livestock was sold.
- You must replace livestock sold by reason of your participation in a livestock reduction scheme organised by the Government within nine years after the close of the year of assessment during which the livestock was sold.

LIVESTOCK SALES DEPOSITED WITH LAND BANK

Where a farmer has disposed of livestock on account of drought on or after 1 March 1982 and the whole or any portion of the proceeds of such disposal has been deposited in an account in the name of the farmer with the Land Bank of South Africa, the amount of such deposit will be deemed not to be gross income for the year of assessment. Only that portion of the proceeds deposited within 3 months after receipt thereof will qualify for this concession.
An amount, being the whole or any portion of the proceeds so deposited, will;

- if it is withdrawn within 6 months after the last day of the year of assessment in which such disposal took place, be deemed to be gross income on the date of such disposal; or

- if it is withdrawn after a period of 6 months, but within 6 years after the last day of the year of assessment in which such disposal took place, be deemed to be gross income on the date of such withdrawal; or
- in the event of a farmer's death or insolvency before the expiration of the 6 year period, be deemed to be gross income on the day before the date of the farmer's death or insolvency, as the case may be; or
- if it is not withdrawn within the 6 year period, be deemed to be gross income on the last day of the 6 year period.

You cannot make use of this concession if you have elected that the cost of livestock purchased in replacement be allowed as a deduction in the year of assessment the livestock was sold on account of drought.

The following may be used as a guide to determine your income / loss from farming operations and to complete the schedule on page 23 of this brochure.

NOTES:
Local and foreign farming activities must be reported separately.

(a) Livestock and produce sold or bartered	**R**

(b) Livestock and produce donated	**R**

Furnish -
- the names and addresses of persons to whom livestock and / or produce was donated;
- a description of the livestock or produce donated; and
- the market value thereof.

(c) Livestock and produce removed from RSA	**R**

If you removed livestock or produce from the Republic for purposes other than sale, furnish -
- a description of the livestock or produce removed; and
- the market value thereof.

(d) Value of livestock and produce consumed by yourself, your family and domestic servants	**R**

Furnish the number of persons in your family, the number of domestic servants and the estimated value (based on the cost of production) of the livestock and produce consumed.

(e) Recoupment of machinery, implements, utensils and articles brought into use on or before 1 July 1988	**R**
(f) Subsidies received	**R**

Furnish -
- the type of subsidy received, e.g. for bond interest, dams, fencing, soil erosion, approved bulls, etc.; and
- the amount received in respect of each type of subsidy.

(g) Any other farming income, including a withdrawal from Land Bank account of the amount invested in respect of livestock sold on account of drought	**R**

Furnish details of any other farming income not specifically mentioned above. This includes bonuses from agricultural co-operatives. Rental received from farming property must be reflected as rental income.

(h) Recoupment of expenditure incurred in respect of development and improvements	**R**

Did you or any person other than an employee occupy, during the year of assessment, any farm building, the cost of which has previously been allowed as a deduction for tax purposes?

(Yes or No)		If "yes", furnish full particulars on a separate schedule.

The total amount received or accrued in respect of moveable assets (machinery, implements, etc.) disposed of during the year of assessment, must be included under this section as a recoupment.
The total amount recouped will be included in your income, except where a balance in respect of expenditure on development and improvements has been brought forward from the previous year of assessment. In such a case the amount recouped will be set off against the relevant balance and only the excess, if any, will be brought into account as farming income.

The following information in respect of such assets sold, given in exchange or donated must be furnished on a separate sheet:
- description of asset;
- original purchase price;
- date sold, exchanged or donated; and
- selling price or market value of asset given in exchange or donated.

NOTE:
The total amount of the recoupment in respect of machinery, implements, utensils or articles brought into use on or after 1 July 1988, must be included under part (e) of this section.

TOTAL (A) = Total (a) to (h). Carry this amount to the farming schedule on page 23 of this brochure	R

FARMING EXPENSES - N.B. Expenses in respect of your dwelling or household must be excluded.

(a) Rent	R

Furnish -
- a description of the property or properties in respect of which rent was paid;
- the names and addresses of persons to whom payment was made; and
- the amount which was paid in respect of each property.

(b) Interest	R

State -
- names and addresses of persons or institutions to whom payment was made;
- the amount of each loan;
- rate of interest payable on each loan;
- purpose for which each loan was utilised; and
- the amount of interest paid on each loan.

CAPITAL REPAYMENTS MUST NOT BE INCLUDED.

(c) Rates and taxes	R

State -
- nature of the taxes; and
- the amount paid.

INCOME TAX MUST NOT BE INCLUDED.

(d) Seed and fertiliser	R

State -
- names and addresses of persons or firms from where you purchased; and
- the amounts paid to each group.

(e) Cash wages paid to farm employees	R

Furnish -

- number of employees normally employed;
- number of casual employees; and
- the actual amounts paid to each group.

Do not include wages of domestic servants.
Wages paid in respect of improvements must not be claimed under cash wages, but under improvements.

(f) Rations purchased for farm employees	R

Furnish the names and addresses of persons or firms from whom you purchased rations and the amounts paid.
Do not include the value of farm produce produced by you or stock bred or purchased by you which has already been included.

(g) Expenses, i.e. motor vehicles, machinery and implements

(i) Fuel, oil and grease		
(ii) Repairs and maintenance		
(iii) Insurance and licences		
(iv) Wear and tear allowance		
(v) Deduction - machinery and implements		
(vi) Other (specify on separate schedule)		
Sub-total		
Less: Private use of vehicles		
	TOTAL	R

Repairs

State the nature of the repair. This part only refers to repairs to vehicles, machinery and implements. Repairs to other items must be shown under item (j) of this section.

Wear and tear allowance of assets owned by the trust or acquired in terms of an installment credit agreement.

This allowance may only be claimed in respect of motor vehicles (of which the exclusive or primary function is the transportation of people), caravans, aircraft (except an aircraft used solely or mainly for crop-spraying), office furniture or office equipment used for farming purposes.
The following information must be furnished:

- Particulars and value of assets on which wear and tear is claimed and which were on hand at the beginning of the year of assessment;
- Dates, description and purchase price of assets purchased or received in exchange during the year of assessment; and
- Dates and descriptions of assets sold, exchanged, traded in or scrapped during the year of assessment and the amounts received for such assets.
- The original date of purchase and cost price of each asset must be stated.

Deduction - machinery and implements owned by the trust or acquired in terms of an installment credit agreement.

A deduction in respect of machinery, implements and utensils brought into use for farming purposes for the first time, will be allowed as follows:

- 50% of the cash cost of the asset in the year of assessment the asset is brought into use;
- 30% of such cost in the following year of assessment; and
- 20% of such cost in the third year of assessment.

This deduction also applies to an aircraft used solely or mainly for the purpose of crop spraying. The cash cost of a new asset, acquired to replace an asset which was damaged or destroyed, must be reduced by the amount recouped in respect of the latter asset. The amount recouped is therefore not included in the farmer's income.

(h) Finance charges	**R**
(i) Cost of material and / or contract price i.r.o. eradication of noxious plants and prevention of soil erosion	**R**

- Only the actual costs which were specifically incurred in eradicating noxious plants or soil conservation must be claimed.
- Wages, rations, fuel, materials, etc., which have already been claimed under other headings must not again be claimed here.
- If the work was undertaken by independent contractors, the names of the contractors and the amounts paid to them must be furnished. The nature of the work done by yourself or the contractor must be described.
- If the work includes the building of dams, weirs or the erection of fences, explain why the expenses are claimed under this part.

(j) Repairs (excluding those claimed under item (g)(ii) above)	**R**

Furnish -

- the nature of the repairs; and
- the cost of the work done.

Only repairs to buildings (except your private dwellings or the dwellings of persons who are not employees), windmills or pumping plant, etc. or expenses for the maintenance of other assets used for farming purposes may be claimed. Wages paid to own farm employees must not be included in this part.

(k) Other expenses (specify on a separate schedule)	**R**
TOTAL (B) = Total (a) to (k). **Carry this amount to the farming schedule on page 23 of this brochure.**	**R**

EXPENDITURE ON DEVELOPMENTS AND IMPROVEMENTS

(a)	Dipping tanks	R
(b)	Dams, irrigation schemes, boreholes and pumping plant	R
(c)	Fences	R
(d)	Erection of or additions or improvements to farm buildings, dwellings for employees	R
(e)	Planting of trees, scrubs or perennial plants for the production of grapes or other fruit, nuts, tea, coffee, hops, sugar, vegetable oils or fibres and the establishment of an area for such purposes	R
(f)	Building of roads and bridges and used in farming operations	R
(g)	Carrying of electric power from the main transmission lines to the farm apparatus	R
TOTAL		**R**

The following details must be furnished separately in respect of development and improvement works;

- description of the work undertaken; and
- how the expenses were compiled, i.e. what amounts were spent on wages, materials, etc. If the work was undertaken by an independent contractor, the name and address of the contractor and the amount paid to him / her must be furnished

.

Wages claimed under item (e) must not be claimed again.
Housing erected for employees does not include housing for your relatives.

TOTAL (C) = Total (a) to (g). **Carry this amount over to the farming schedule on page 23 of this brochure.**	**R**

LIVESTOCK PURCHASED AND RECEIVED IN EXCHANGE

Example:

Farming income		R 5 000
Closing stock - Livestock		R 1 500
		R 6 500
LESS: Opening stock - Livestock	R 1 000	
Livestock purchases	R 8 000	R 9 000
Loss on livestock		R 2 500

The loss of R2 500 is not allowable and is carried forward to the following year of assessment.

If the farmer can prove that, for example, due to drought, the fair market value of his / her livestock at the end of the year of assessment is less than the loss on livestock as shown above, together with the value of opening stock, such loss is reduced by the difference.

Example:

Amount to be carried forward (loss on livestock)	R 2 500
Plus: Opening stock of livestock	R 1 000
	R 3 500
Less: Fair market value of closing stock	R 3 000
Allowable	R 500

The amount of R2 500 is reduced to R 2 000.

STANDARD CLASSIFICATION AND STANDARD VALUES OF LIVESTOCK

Deaths during the year	Standard Classification		Standard value (Rands)	Own value (Rands)	Number on hand	Total value (Rands)
	CATTLE	Bulls	50			
		Oxen	40			
		Cows	40			
		Tollies and heifers: 2 – 3 years	30			
		Tollies and heifers: 1 - 2 years	14			
		Calves	4			
	SHEEP	Wethers	6			
		Rams	6			
		Ewes	6			
		Weaned lambs	2			
	GOATS	Fully grown	4			
		Weaned kids	2			
	HORSES	Stallions, over 4 years	40			
		Mares, over 4 years	30			
		Geldings, over 3 years	30			
		Colts and fillies: 3 years	10			
		Colts and fillies: 2 years	8			
		Colts and fillies: 1 year	6			
		Foals, under 1 year	2			
	DONKEYS	Jacks, over 3 years	4			
		Jacks, under 3 years	2			
		Jennies, over 3 years	4			
		Jennies, under 3 years	2			
	MULES	4 years and over	30			
		3 years	20			
		2 years	14			
		1 year	6			
	OSTRICHES	Fully grown	6			
	PIGS	Over 6 months	12			
		Under 6 months	6			
	POULTRY	Over 9 months	1			
	CHINCHILLAS	All ages	1			

TOTAL (D) Total value of livestock on hand. **Carry this total over to the farming schedule on page 23 of this brochure.**	**R**

PRODUCE (gathered and marketable) on hand, value at cost of production or market value, whichever is the lower		
PRODUCE	QUANTITY	TOTAL VALUE (RANDS)
TOTAL (E) Total value of produce on hand. **Carry this total over to the farming schedule on page 23 of this brochure.**		**R**

NOTE:
Declare the income from local and foreign farming operations separately.

ELECTION OF LIVESTOCK VALUES

Have you already exercised the COMPULSORY election in this regard? "Yes" or " No" ☐

If "NO", complete the following declaration:

I hereby elect the following classification and values and understand that my election may be varied only with the consent and approval of the Commissioner for the South African Revenue Service.

Mark with an "X":

☐ (a) The standard classification and standard values as fixed by the Regulations under the Income Tax Act and set out above.

☐ (b) The standard classification, but at my own values as detailed above.

☐ (c) My own classification and my own values, as per attached statement.

Date: ____________ Signature: ____________

FARMING OPERATIONS

Income from *local* farming operations

Rands only

Gross receipts and accruals **TOTAL (A)**
PLUS: Livestock on hand at the end of the year of assessment **TOTAL (D)**
Produce on hand at the end of the year of assessment .... **TOTAL (E)**
TOTAL [(A) + (D) + (E)]
LESS: Market value of livestock and produce acquired otherwise than by purchase, natural increase or in the ordinary course of farming operations (for example, donations and inheritance)........
SUB-TOTAL (i)

Livestock on hand at the end of the preceding year of assessment ....
Livestock purchased and received in exchange ....
Balance of livestock not allowed in the preceding year of assessment ....
SUB-TOTAL (ii)
LESS: Amount deductible [Sub-total (ii) limited to Sub-total (i)]
Balance carried forward to the following year of assessment ....
(This amount may not create or increase a loss) **SUB-TOTAL**
LESS: Expenses .... **TOTAL (B)**
Produce on hand........
Net profit / loss ....
LESS: IMPROVEMENTS
Expenditure **TOTAL (C)**
Plus: Balance of improvements brought forward from previous year ....
SUB-TOTAL
LESS: Amount of improvements deductible from net profit ....
(This amount may not create or increase a loss)
Balance carried forward to the following year of assessment

	Rands	Source Code
TAXABLE INCOME / LOSS FROM LOCAL FARMING OPERATIONS .... Profit		
Loss		

Carry this amount to part 14 of the return.

Income from *foreign* farming operations

Rands only

Gross receipts and accruals **TOTAL (A)**
PLUS: Livestock on hand at the end of the year of assessment **TOTAL (D)**
Produce on hand at the end of the year of assessment .... **TOTAL (E)**
TOTAL [(A) + (D) + (E)]
LESS: Market value of livestock and produce acquired otherwise than by purchase, natural increase or in the ordinary course of farming operations (for example, donations and inheritance)........
SUB-TOTAL (i)

Livestock on hand at the end of the preceding year of assessment ....
Livestock purchased and received in exchange ....
Balance of livestock not allowed in the preceding year of assessment ....
SUB-TOTAL (ii)
LESS: Amount deductible [Sub-total (ii) limited to Sub-total (i)]
Balance carried forward to the following year of assessment ....
(This amount may not create or increase a loss) **SUB-TOTAL**
LESS: Expenses .... **TOTAL (B)**
Produce on hand........
Net profit / loss ....
LESS: IMPROVEMENTS
Expenditure **TOTAL (C)**
Plus: Balance of improvements brought forward from previous year ....
SUB-TOTAL
LESS: Amount of improvements deductible from net profit ....
(This amount may not create or increase a loss)
Balance carried forward to the following year of assessment

	Rands	Source Code
TAXABLE INCOME / LOSS FROM FOREIGN FARMING OPERATIONS .... Profit		
Loss		

Carry this amount to part 14 of the return.

EXPENDITURE

(a) Direct expenditure

State the total amount of direct expenditure (forming part of the total expenditure reflected in the income statement or administration account of the trust) relating to each source of income.

Determine the sum of the total direct expenditure incurred by the trust (excluding farming income) by adding up the expenditure relating to each source of income.

NOTE:
No deductions shall in any case be made in respect of any expenses incurred by a personal service trust other than any expense which constitutes an amount paid or payable to an employee of such trust for services rendered by such employee, which is or will be taken into account in the determination of the taxable income of such employee.

(b) Indirect expenditure

Indirect expenditure / overhead expenditure (expenditure not relating to a specific source of income) of a trust must be apportioned between the different sources of income in a fair and reasonable way with regard to all the circumstances of the trust.

State the total amount of indirect expenditure (forming part of the total expenditure reflected in the income statement or administration account of the trust) apportioned to each source of income.

Determine the sum of the total indirect expenditure incurred by the trust (excluding farming income) by adding up the expenditure relating to each source of income.

Specify the basis of apportionment on a separate sheet and attach to the return.

NET INCOME ACCORDING TO THE INCOME STATEMENT OR ADMINISTRATION ACCOUNT

Determine the net income derived from each source of income (excluding farming income), by deducting the direct expenditure relating to each source of income, as well as the indirect expenditure allocated to each source of income, from the total receipts / accruals from each source of income.

Determine the sum of the net income derived from all sources (excluding farming income) by adding up the net amounts derived from all the sources.

The total amount derived from all the sources of income should correspond with the net income of the trust according to the income statement / administration account of the trust.

NON-ALLOWABLE ITEMS

Only expenditure and losses actually incurred, in the production of the income of the trust, will be allowed as a deduction against the income of the trust.

Non-allowable items are for example the following:

- Non-productive interest for example interest paid on borrowed money which was utilised to buy a holiday home for the private use of the beneficiaries of the trust;
- Donations;
- Penalties;
- Capital expenditure;

- Non-business portion of vehicle and other expenses included in the calculation of the net profit;
- Depreciation charged in the financial statements on a basis different from the basis provided for in the Act; and
- Interest paid in respect of capitalised leased assets.

State the total amount of non-allowable expenditure in respect of each source.

Determine the sum of all the non-allowable expenditure (excluding farming income) by adding up the non-allowable expenditure added back in respect of each source.

TAX DEDUCTIONS AND ALLOWANCES

State the total amount of tax deductions and allowances claimed in respect of each source of income which has not yet been reflected.

Determine the sum of the tax deductions and allowances relating to all the sources of income (excluding farming income) by adding up the tax deductions and allowances relating to all sources of income.

NOTE:
The amount by which the sum of the deductions and allowances exceeds the income distributable to a beneficiary will, where the trust is subject to tax in the Republic, be carried forward and be deemed to be a deduction or allowance which may be made in the determination of the taxable income derived by the beneficiary during the immediately succeeding year of assessment.

DEDUCTIONS IN RESPECT OF WEAR AND TEAR

In terms of the provisions of section 11(e) and other sections such as 12B, 12C etc., of the Act, such amount as the Commissioner may think just in respect of assets owned by the trust or acquired by the trust in terms of an installment credit agreement and reasonable as representing the amount by which the value of any machinery, plant, utensils and articles used by the trust for the purposes of its trade, has been diminished by reason of wear and tear or depreciation during the year of assessment, will be allowed as a deduction.

This deduction is normally calculated on the diminishing value of an asset, i.e. on the value remaining after the deduction for wear and tear in respect of previous years of assessment.

A trust may, however, elect to depreciate the cost of an asset acquired by it on the straight-line basis. The trust need not obtain permission from SARS to do so. The trust will, however, be required to comply with the following requirements in respect of the assets to which such method will be applied:

- Adequate records must be maintained;
- The straight-line method must be applied to all assets of the same class;

The annual tax return must include a schedule disclosing the following information in respect of each asset disposed of during the year of assessment:

  - The date of acquisition as well as the original cost;
  - The income tax value at the end of the immediately preceding year of assessment; and
  - The price realised on disposal or scrapping as well as the tax value of any profit or loss.

An asset written off in full must be brought into account at a residual value of R1 for record purposes.

The records to be maintained must be such that it will be possible for the above-mentioned details of an asset to be established at any point in time.

Write-off periods acceptable to the South African Revenue Service are contained in Practice Note No.19 to the Act.

The write-off periods for some of the most commonly-used items are as follows:

Passenger cars	5 years	Computers (personal)	3 years
Furniture and fittings	6 years	Curtains	5 years
Cash registers	5 years	Delivery vehicles	4 years
Computers (main frame)	5 years	Fax machines	3 years

Please take note of the provisions contained in par. 65 and par. 66 of the Eighth Schedule to the Income Tax Act i.r.o. assets disposed of on or after 22 December 2003.

TAXABLE INCOME AVAILABLE FOR DISTRIBUTION

- Determine the taxable income derived from each source of income, by adding the non-allowable expenditure relating to each source of income, to the net income derived from each source of income.

- Determine the total taxable income available for distribution, by adding up the taxable income relating to each source of income.

INCOME DISTRIBUTED TO BENEFICIARIES OR VESTING IN BENEFICIARIES AND TAXABLE IN THE HANDS OF BENEFICIARIES

Any income received by or accrued to or in favour of any person in his capacity as the trustee of a trust shall, subject to the provisions of Section 7 of the Act, be deemed to be the income of a beneficiary, to the extent to which such income has been derived for the immediate or future benefit of any ascertained beneficiary with a vested right to such income.

A beneficiary can acquire a vested right on the income / part of the income of the trust in two ways:

- In terms of the provisions of the trust deed / will of a deceased person; or

- In consequence of the exercise by the trustee of a discretion vested in him / her in terms of the relevant deed of trust, agreement or will of a deceased person.

  A beneficiary obtains a vested right on the income of a trust if the trust deed / will of a deceased person provided that the income of the trust must be distributed to a certain beneficiary or must vest in a certain beneficiary.

  A beneficiary also obtains a vested right on the income of a trust if he / she has a vested right on the capital of the trust in terms of the provisions of the trust deed / will of the deceased. The trust deed / will of a deceased therefore provides that the capital of the trust (including the accumulated income of the trust) must be paid to / vest in a certain beneficiary and no provision is made in the document that if the beneficiary dies before a certain event, that the capital of the trust would vest in his / her descendant(s) or even in another nominee(s).

  It is important to remember that where reference is made in the trust deed / will of a deceased person, it does not refer to the income tax concept of “income", but it rather refers to the concept of income vs. capital of the trust.

  A beneficiary may, for instance, have a vested right on the income of the trust, but not on the capital of the trust. This will mean (if not otherwise provided for) that the beneficiary has a vested right on the net distributable income of the trust (the amount which would have been capitalised in the trust account if the beneficiary didn't have a vested right on it). If there is no income available for distribution and the beneficiary only has a vested right on the income of the trust, in terms of the provisions of the trust deed / will of a deceased person, it would not be possible to distribute any income to such a person.

  Income distributed to a minor child in a beneficiary by reason of any donation, settlement or other disposition made by a parent of that child to the trust, will in terms of the provisions of Section 7 of the Act, not be taxable in the hands of the beneficiary, but will be taxable in the hands of the parent who made such a donation, settlement or disposition to the trust.

  State the amount of income distributed to / vesting in each beneficiary of the trust in respect of each source of income, unless the provisions of Section 7 of the Act are applicable. If the provisions of Section 7 are applicable. The applicable part must be completed.

  Distributions to beneficiaries must be apportioned between the different sources of income, unless the distributions were done from a specific source of income, since income produced by means of a trust retains its identity if it is distributed to / vests in a beneficiary.

The amounts distributed to / vesting in a beneficiary / beneficiaries and taxable in the hands of a beneficiary / beneficiaries as determined in this part, must be carried over to part 6(A) of the return of income of the trust. Amounts so distributed will retain their identity.

INCOME TAXABLE IN THE HANDS OF ANOTHER PERSON (In terms of the provisions of Section 7 of the Act)

- Income distributed to a beneficiary / vesting in a beneficiary by reason of any donation, settlement or other disposition made by a parent of that child to the trust, will in terms of the provisions of Section 7(3) of the Act, not be taxable in the hands of the beneficiary, but will be taxable in the hands of the parent who made such a donation, settlement or disposition to the trust.

- Income retained in the trust or vesting in a beneficiary by reason of a donation, settlement or disposition (including a loan in respect of which no interest or a lower than market-related rate of interest is payable) which is subject to a stipulation or condition (for example, the capital and accumulated income must be paid over to a beneficiary when he / she reaches the age of 21, or the income of the trust may only be distributed to a beneficiary in consequence of the exercise by the trustee of a discretion vested in him in terms of the relevant trust deed), will in terms of the provisions of Section 7(5) of the Act, be taxable in the hands of the person who made such a donation, settlement or disposition to the trust.

- State the amount of income in respect of each source of income, which is taxable in the hands of another person(s).

- If the space provided in the return is insufficient, provide details of other persons on a separate schedule and attach to the return.

INCOME TAXABLE IN THE TRUST

The trust will be taxable on the net taxable income produced by the trust, after the amounts distributed to / vesting in the beneficiaries of the trust, as well as any amounts taxable in the hands of any other person in terms of the provisions of Section 7 of the Act, and Paragraph 80 of the Eighth Schedule to the Act, have been deducted from the taxable income of the trust.

Determine the amount taxable in the trust (in respect of all sources of income) and carry this amount over to the income section of the return of the trust.

RATES OF TAX APPLICABLE TO TRUSTS

(a) In respect of the taxable income of any trust (other than a special trust), an amount of 40 cents on each rand of taxable income.

(b) The following statutory rates are applicable in respect of 'special trusts'.

Statutory rates of tax applicable to individuals	
WHERE THE TAXABLE INCOME -	
Does not exceed R80 000	18% of each R1 of the taxable income
Exceeds R80 000 but does not exceed R130 000	R14 400 plus 25% of the amount by which the taxable income exceeds R80 000
Exceeds R130 000 but does not exceed R180 000	R26 900 plus 30% of the amount by which the taxable income exceeds R130 000
Exceeds R180 000 but does not exceed R230 000	R41 900 plus 35% of the amount by which the taxable income exceeds R180 000
Exceeds R230 000 but does not exceed R300 000	R59 400 plus 38% of the amount by which the taxable income exceeds R230 000
Exceeds R300 000	R86 000 plus 40% of the amount by which the taxable income exceeds R300 000

NOTE:
There is no rebate applicable to trusts, since the provisions in the Act relating to rebates only refer to natural persons.

PART 15: ASSETS AND LIABILITIES

Declare the foreign and local assets and liabilities separately and attach a list detailing all foreign assets. Assets deemed to be regarded as an asset of the beneficiary (where exchange control amnesty was approved) and the value thereof must be excluded. A list of all the assets deemed to be that of a beneficiary should however be compiled and submitted together with the return.

PART 16: GENERAL

This part must be completed by every trust. If additional information is required, it must be submitted on a separate evenly-numbered schedule and attached to the return.

16.1 Trust deed

If the trust deed has been subject to any variation during the last three years of assessment, forward a copy of the said variation.

16.2 Beneficiaries

If the beneficiary / beneficiaries of the trust has / have varied during the last three years of assessment, the following information must be provided:

- Furnish particulars of the newly-appointed beneficiary / beneficiaries; and
- Furnish reasons for this alteration.

16.3 Trustees

If the trustee(s) of the trust has / have varied during the last three years of assessment, the following information must be provided:

- Furnish the particular of the newly-appointed trustee(s) in the return; and
- Furnish reasons for this alteration.

16.4 Vested right on income

If any beneficiary / beneficiaries of the trust has / have a vested right on the income / part of the income of the trust, indicate which clause / section / part / paragraph of the trust deed / will provides for such vested right.

16.5 Vested right on capital

If any beneficiary / beneficiaries of the trust has / have a vested right on capital / part of the capital of the trust, indicate which clause / section / part / paragraph of the trust deed / will provides for such vested right.

16.6 Section 7of the Act and part 6 and Paragraph 80 of the Eighth Schedule to the Income Tax Act

Give an indication whether the provisions of Section 7, or part 6 or Paragraph 80 of the Eighth Schedule to the Act, applied to the income of the trust during the previous year of assessment. Complete the applicable part of this return if this section applies to this year of assessment.

16.7 Special trust

If the trust was classified as a special trust, type B, submit proof that the youngest beneficiary was under the age of 21 years on the last day of the current year of assessment, if applicable.

16.8 Donations made / received by the trust

If the accumulative donations made or received by the trust exceeded R10 000 during this year of assessment, the following information must be provided in respect of the donations made by the trust during this year of assessment:

- Name and address of each donee / donor;
- The relationship between the donee / donor and the trust;
- The date of the donation, the value of the donation and the nature of the donation.
- Indicate whether an IT 144 donations tax declaration has been submitted in respect of the donation and to which revenue office.

NOTE:
The value of the donation must be the lower of the cost thereof or the fair market value.

- Donations tax of 20% shall be payable in respect of so much of the sum of the values of all casual gifts made by the trust as exceeded the value of R10 000.

- Capital income distributed to beneficiaries will not constitute a donation made by the trust.

- If a property was disposed of for a compensation which is in the Commissioner's opinion not sufficient, it would be deemed that the property was disposed by means of a donation.

- The "deemed donation" will be represented in the difference between the compensation and the amount which is in the Commissioner's opinion sufficient compensation.

- Donations tax is payable within three months after the date of which the donation was made.

- Interest will be levied at the prescribed rate on the outstanding balance of such tax in respect of each completed month during which any portion of the tax has remained unpaid.

16.9 Shares in a foreign entity

Complete the IT10 available on the SARS website and attach to the return of the trust.

16.10 Transfer pricing

Where any goods or services are supplied or acquired in terms of an international agreement and the acquirer is a connected person in relation to the supplier and the goods or services are supplied or acquired at a price which is either less than the price which such goods / services might have been expected to fetch if the parties to the transaction had been independent persons dealing at arm's length, or greater than the arm's length price, then the Commissioner for the South African Revenue Service may, in determination of the taxable income of either the acquirer or supplier, adjust the consideration in respect of the transaction to reflect an arm's length price for the goods or services.

16.13 Learnership agreements Sect. 12H

(a) If "yes", attach the relevant IT180 declarations to the return.
(b) If "yes", provide the following:
- amount recouped in respect of each learner.
- copies of the IT180 pertaining to such learners in respect of such amounts recouped.

16.14 Assets deemed to be that of the beneficiary(ies)

(a) Furnish a description of the asset, detailing the value thereof and the reason for deeming the asset to be an asset of a beneficiary.
(b) Furnish full details of the transaction.

16.15 Par. 65 and par. 66 of the Eighth Schedule to the Income Tax Act.

Furnish the following:
- A description of the asset disposed of
- A description of the replacement asset
- The dates of acquisition and disposal of the original asset
- The purchase price of the replacement asset, and
- The proceeds at disposal of the original asset

16.16 Assets from non-residents

If "yes", attach a schedule with a description and location (address) of the immovable property to the return.

16.17 Reportable Arrangements

(a) and (b) Complete and attach the RA07 available on the SARS website

16.18 Capital Gains

Furnish the information as requested in the return.

16.19 Mining Activities

If yes, please complete the Mining Schedules on the following four pages and attach to the return.

MINING SCHEDULE

SCHEDULE A

PART 1

Indicate / state whether you were engaged in mining or mining operations as defined in Section 1 of the Income Tax Act.

If yes, please provide the following information / documentation:

- Detailed description of the mining or mining operations being conducted making reference of the type of operations conducted;
- A detailed description indicating the mineral areas currently being explored by t he company, the mineral areas being mined and / or previously mined, as well as mineral areas being considered as one mine for purposes of section 36 of the Income Tax Act, making reference to business rationale, contiguity of orebodies, etc.;
- A detailed description of the downstream operations with reference to, inter alia, new or partially completed infrastructure such as smelters, refiners, concentrators, etc., the role thereof in the downstream operations as well as the consequential treatment (allocation) of the capital expenditure incurred; and
- A detailed explanation in respect of each exploration undertaking with regards to activities and future exploitation.

PART 2

Indicate whether -

(a) The mining or mining operations are conducted on behalf of a mineral right holder; or

(b) Whether the mining or mining operations are conducted on a property by another party to which you are the registered mineral right holder?

If yes, Provide the following information and documents -

- A copy of the signed agreement(s) entered into during the year and / or in existence at year end;
- A copy of the Mining Authorisation issued by the Director of the Department of Minerals and Energy in respect of the mining rights referred to in the contract(s) entered into, and / or
- Where no formal agreement was entered into, furnish a detailed description of the sub-contract mining activities being conducted.

PART 3

(a) Were any contributions made to a rehabilitation trust or provisions raised for future rehabilitation obligations?

If "yes" please provide the following information / documentation:

- Name and income tax reference number of the trust or any other approved vehicle;
- Detailed calculation of the contribution made in cash as contemplated in section 11(hA) of the Income Tax Act; and
- Copy of the certification as issued by a person designated by the Minister of Minerals and Energy with reference to symbols A and D of the formulae as contained in section 11(hA) of the Income Tax Act.

(b) If you answered "no" to question 3(a) above indicate whether any other arrangements are in place to provide for rehabilitation costs (in respect of early and final closure costs).

If "yes" please provide the following information / documentation:

- A detailed description of the arrangement(s) in place as well as amount claimed as a deduction for Income Tax Purposes;
- A copy of any signed agreement(s) entered into; and
- Where SARS has given approval of the arrangement prior to implementation, a copy of the approval document.

PART 4

Did you dispose of, acquire, transfer, lease or cede mining property and / or capital assets as contemplated in sections 36 and 37 of the Income Tax Act?

If "yes" please provide the following information / documentation:

The following information and documents should be furnished -

- A copy of the signed agreement(s) entered into; and
- A copy of the effective value determination issued by the Director General for Minerals and Energy in relation to the mining property and capital assets, as defined , acquired and / or disposed of.

NOTE:
Complete the Tax computation (Schedule B) as well as the Mining capital expenditure (Schedule C) and attach it to page 11 of your return.

TAX COMPUTATION

SCHEDULE B

NAME: *[ABC (Pty) Ltd]*
REFERENCE NUMBER: *[0000/000/00/0]*
YEAR ENDED: *[00 Aaaaa 2005]*

	A	B	C	D	E	F	G
	Non-Mining	Mining Operations					Grand Total (A + F)
		Mine 1	Mine 2	Mine 3	Mine 4	Total	
Net profit / (loss) per income statement	0	0	0	0	0	0	0
Debit Adjustments (Decrease net profit / increase net loss) Total of the amount as determined in part 6.4 of the Form IT14.	0	0	0	0	0	0	0
Credit Adjustments (Increase net profit / Decrease net loss) Total of the amount as determined in part 6.4 of the Form IT14.	0	0	0	0	0	0	0
Income / Mining Income	**0**	**0**	**0**	**0**	**0**	**0**	**0**
Utilisation of assessed loss b/f	0	0	0	0	0	0	0
	0	**0**	**0**	**0**	**0**	**0**	**0**
Redemption of capital expenditure	n/a	0	0	0	0	0	0
	0	**0**	**0**	**0**	**0**	**0**	**0**
Capital expenditure redemption ito S36(7G)	n/a	0	0	0	0	0	0
Taxable Income / Mining Income / (Loss)	**0**	**0**	**0**	**0**	**0**	**0**	**0**

MINING CAPITAL EXPENDITURE

SCHEDULE C

NAME: *[ABC (Pty) Ltd]*
REFERENCE NUMBER: *[0000/000/00/0]*
YEAR ENDED: *[00 Aaaaa 2005]*

		Mine 1	Mine 2	Mine 3	Mine 4	Total
Unredeemed expenditure b/f from prior year		**0**	**0**	**0**	**0**	**0**
Current year expenditure incurred		**0**	**0**	**0**	**0**	**0**
Capital expenditure acquired (Per effective valuation workings)	* + *[Validation to be attached]*	0	0	0	0	0
Assets purchases and capital expenditure incurred -	*	0	0	0	0	0
Shaft sinking and mine equipment	*	0	0	0	0	0
Vehicles (Excluding assets subject to S36(11)(d))	*	0	0	0	0	0
Vehicles subject to S36(11)(d)	*	0	0	0	0	0
Plant, machinery and equipment	*	0	0	0	0	0
Office equipment, etc.	*	0	0	0	0	0
Buildings acquired / erected (Excluding assets subject to S36(11)(d))	*	0	0	0	0	0
Buildings acquired / erected subject to S36(11)(d)	*	0	0	0	0	0
Capital and standby stores	*	0	0	0	0	0
Overheads capitalised	*	0	0	0	0	0
Section 36(11)(c) allowance		0	0	0	0	0
Section 36(11)(d) allowance (Vehicles)		0	0	0	0	0
Section 36(11)(d) allowance (Housing)		0	0	0	0	0
Other capital expenditure (inclusive of capitalised exploration expenditure)	*	0	0	0	0	0
Reductions in capital expenditure		**0**	**0**	**0**	**0**	**0**
Provision for capex acquisitions, included in assets acquired		0	0	0	0	0
Vehicles subject to S36(11)(d)	*	0	0	0	0	0
Buildings acquired / erected subject to S36(11)(d)	*	0	0	0	0	0
Proceeds on disposal of mining capital assets		0	0	0	0	0
Other		0	0	0	0	0
Redeemed in this year		0	0	0	0	0
		0	**0**	**0**	**0**	**0**
Section 36(7G) utilisation		0	0	0	0	0
Unredeemed expenditure c/f to next year		**0**	**0**	**0**	**0**	**0**

Control	
Total additions per above (items indicated by asterix)	0
Total additions per Annual Financial Statements	0
Difference (Reconciliation to be provided)	**0**

Note: where mining operatoins has not commenced and exploration expenditure are claimed in terms of section 11(a) of the Income Tax Act, full disclosure should be made in a separate schedule.