

July 2023

Trusts

If you are a Trustee or a beneficiary of a Trust, the following legislative changes are relevant and should cause you to act.

According to the SARS website:

*A Trust **must** register with SARS for the (tax types) taxes that it may be liable for, regardless of whether the Trust has any transactions and/or assets.*

This means that “dormant” trusts that are empty or just hold assets need to register and become compliant.

As of the 31 March 2023: A new reporting obligation for trustees was gazetted on 31 March 2023, which amended the Trust Property Control Act, Act 57 of 1998 (TPCA).

As per the doj & cd (**The Master of the High Court**) website: Every trust must complete the

Trust Beneficial Ownership Register

Information captured on this form is submitted to the Master of the High Court. This information is required in terms of Trust Property Control Act 57 of 1998, and General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Bill.

Trustees are required to keep it in their records together with ID copies of all beneficial owners of the trust.

Who is defined as a 'beneficial owner' of a trust?

The TPCA defines '**beneficial ownership**' to include the founders, trustees, named beneficiaries and any individuals who exercise effective control of any trust.

A 'beneficial owner' is always a natural person. In the instance where a legal entity fulfils the role of a beneficial owner, the natural person/s who ultimately benefit/s from the legal entity will need to be recorded as the beneficial owners of the trust.

Failure to comply with these requirements may result in a penalty of up to R10 million and/or five years' imprisonment for trustees. Additional sanctions may be applied by the Master of the High Court or the Financial Intelligence Centre.

The above two requirements fall onto the shoulders of the **Beneficial Owners** of the Trust.

If you can define yourself as a Beneficial Owner and require assistance with any of the above, you may contact us.