

**2024 FILING SEASON
ITR14 AND ITR12T UPDATES
19 NOVEMBER 2024**

Below are updates on some of the challenges members have reported in respect of the Trust and Company annual income tax returns (the ITR12T and ITR14, respectively).

Trust income tax return (ITR12T):

1. SARS Webinar on Trusts and Tax Compliance

If you missed the SARS Trust and Tax Compliance webinar, [view the presentation](#) or see the recordings of the topics below on the SARS YouTube TV channel:

- [Compliance requirements for trusts](#)
- [What is a passive trust?](#)

2. Guidance regarding disclosure

- The beneficial owner containers in the return (ITR12T), can accommodate up to 20 beneficiaries. For the remainder, a schedule should be attached that provides detail (as required) of the remainder of the beneficial owners (beneficiaries). Also note that this schedule is mandatory even if the beneficial owners are less than 20.
- If you have more than 50 distributions to beneficiaries to disclose, include the top 49 and aggregate the balance of the total in the container for the 50th. It is expected that the rest of the details will be included in the beneficial ownership list to be uploaded.
- Note: the benefit of the IT3(t) is now evident in that, when it replaces the beneficiary schedule, a complete and accurate record of all distributions will be readily available.

3. Errors noted

- Members reported seeing an **error message** when trying to load the return – this appears to have been fixed, but if you still experience this, please log this on the SAICA Member Portal with screenshots of the error message.
- Return **not pre-populating beneficial ownership** details from 2023: this seems to be related to the above error which may now be resolved. Please refresh the affected return/s and try again. If you still experience this challenge after refreshing, please log this on the SAICA Member Portal with details of taxpayer/s impacted.

Corporate income tax return (ITR14):

1. Beneficial ownership section

SAICA has received a few queries on the new **beneficial ownership section** of the ITR14 that was implemented with the 14 September 2024 version of the return. Specifically, queries have been raised as to why the relevant container requires details of individuals even where the shareholder may be a trust or company. In addition, concerns were raised that limiting the number of beneficial owners to nine, is restrictive.

The Companies Act, 2008 definition of 'beneficial ownership' is referenced in the Tax Administration Act, 2011 (TAA) and reads as follows: '**beneficial owner**' in respect of a company, means an '**individual who, directly or indirectly, ultimately owns that company or exercises effective control of that company, including through...**'. (our emphasis)

There is a list of six items one may choose from when completing the relevant container in the ITR14. Referring to the portion in bold above, it is only those individuals (natural persons) who ultimately own or exercise effective control over the company in respect of which the declaration is being made, who should be declared as the beneficial owner/s, and the relevant option (of the six) is to be selected.

Regarding the limit of nine beneficial owners on the form, SARS believes that this is not an issue as it is only those individuals that fit one of the six criteria whose details would need to be disclosed. If members believe that the limit is not appropriate, please send us an [email](#) with reasons as to why you hold this view, and it will be addressed with SARS.

2. Section 11G 'error' resolved:

The ITR14 form required a mandatory declaration that interest claimed was limited in terms of section 11G, even though this section is only applicable from 1 January 2025.

SARS has since resolved this issue, and members confirmed being able to submit the affected returns from 28 September 2024.

Below is a screenshot of the error message.

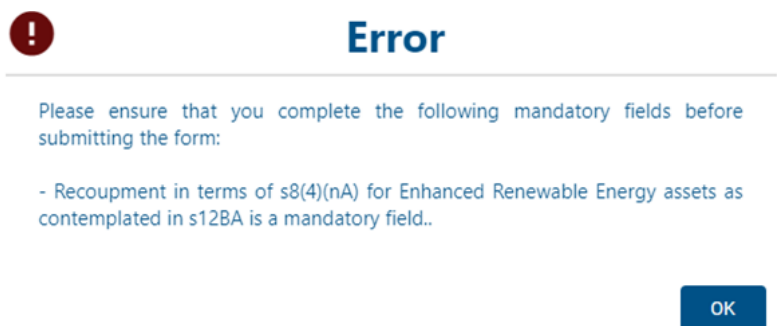


3. Section 12BA related mandatory questions

Members noted mandatory questions related to section 12BA, even where the taxpayer did not claim an allowance in terms of this section. SARS advised that this was fixed and affected returns could be successfully submitted from 28 September 2024.

4. Error message related to mandatory field for the section 8(4)(nA) recoupment

The below error was noted on the return for micro-businesses, even where this was not relevant to the taxpayer.



SARS' business tax team advised that they are aware of this issue and confirmed that it seems to impact the Micro/Body Corporate/Share block company returns being submitted for the 2024 tax period. SARS has a provisional release date for the fix (likely to be implemented before mid-October), however this is still to be formalised. Further feedback will be shared when available.

5. SARS' response in relation to concerns over declaration regarding the public officer

Concerns were raised regarding the public officer declaration in the return on the basis that some of the information may not be made available to the person completing the return – for example, the tax compliance status of the public officer.

SARS advised that existing legislation, including amendments introduced to provide for beneficial ownership, require companies to become, as they say, affiliated with certain private matters of persons, including those who qualify as public officers. Companies are therefore expected to answer the question based on the requisite level of due diligence that the underlying provisions demands, based on the access to information to which they are entitled. SARS noted that a company which has exercised such due diligence cannot be faulted for answering incorrectly, and those that do not exercise the requisite amount of due diligence, may be guilty of negligence, but may only be guilty of fraud if the required intent is present.

As it pertains to tax compliance, on the current wording of section 246 of the TAA, SARS must approve the public officer, and it is therefore SARS' prerogative to require such

declaration. In SARS' view, these checks should form part of the due diligence a company performs and if the prospective candidate refuses to provide access to the tax compliance status system, they should (perhaps) not be considered for appointment.

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