

CLIENT GUIDE | SOUTH AFRICAN TRUST GUIDE

South African Trust Guide

Trustee duties, taxation, estate planning
and compliance

Trust Property Control Act 57 of 1988 | Updated June 2026

Contents

Contents	2
■ About this guide	3
■ At a glance	3
■ What a trust is, and why people use one	3
■ Types of trust	4
■ The people in a trust	4
■ Setting up a trust	5
■ A trustee's core duties	5
■ The biggest risk: a sham or alter-ego trust	6
■ When a trustee can be personally liable	6
■ Meetings, resolutions and records	6
■ The trust bank account and accounting	7
■ The beneficial ownership register	7
■ Reporting to SARS: the IT3(t)	7
■ How a trust is taxed	8
■ Loans to a trust	8
■ Trusts in estate planning	9
■ Changing trustees, amending the deed, ending a trust	9
■ What it costs to run a trust	9
■ When a trust is not appropriate	9
■ Common trust pitfalls	10
■ Frequently asked questions	10
■ Glossary of terms	10
■ How we can help	11
■ Important notice	11

About this guide

Jansen Accountants & Auditors | South African Trust Guide | Updated June 2026

What a trust is, when it makes sense, and what it really takes to run one properly as a trustee in South Africa.

A trust is a powerful tool for protecting assets, planning your estate and providing for the people you care about. It is also a serious legal responsibility that is easy to get wrong. This guide explains the types of trust, the people involved, how a trust is set up and taxed, and the duties that keep it valid and out of trouble. It reflects the Trust Property Control Act 57 of 1988, the Income Tax Act 58 of 1962 and current Master of the High Court practice as at June 2026.

How to read the boxes in this guide

A **JACC insight** explains a point plainly, a **Planning opportunity** points to something worth doing, and a **Common trust pitfall** warns of what goes wrong. A note from our partner appears where experience matters most.

Professional disclaimer

This guide does not constitute personal, legal or tax advice. The trust deed governs what the trustees may and may not do, and every trust is different. Read this with us and with your deed before acting.

At a glance

Key facts

45% Trust income tax rate	36% Trust CGT effective rate	Master Issues Letters of Authority	IT3(t) Annual SARS return
Section 7C Loans to a trust	Section 25B The conduit principle	BO register Lodged with the Master	R150 000 Annual donations exemption

What a trust is, and why people use one

Benefits and trade-offs

A trust is a legal arrangement in which a founder hands assets to trustees, who hold and manage them for the benefit of the beneficiaries, under the terms of a trust deed. The assets no longer belong to the founder personally, which is the source of both the benefits and the responsibilities.

Why people use a trust

- Protection: assets in a properly run trust are generally beyond the reach of the founder's personal creditors.
- Succession and continuity: the trust does not die, so assets pass on without a deceased-estate process.
- Estate duty planning: future growth in the assets accrues in the trust, not in your personal estate.
- Providing for vulnerable beneficiaries: minors, or family members who cannot manage money themselves.

The trade-offs

- A flat income tax rate of 45%, and a CGT effective rate of 36%, unless income is distributed to beneficiaries.

- Running costs, administration and annual compliance.
- Loss of personal control: the trustees, not the founder, must genuinely run the trust.
- The section 7C rules where the trust is funded by a loan.

Charlton's insight

A trust is not a magic box, and it is not a place to park assets you still treat as your own. The protection and the tax benefits only hold if the trust is genuinely run as a trust, by the trustees, on proper records. Run loosely, it gives a false sense of security and is the first thing a creditor or SARS attacks.

Types of trust

Choosing the right vehicle

Type	What it is
Inter vivos (living) trust	Created during the founder's lifetime, by a trust deed registered with the Master.
Testamentary (will) trust	Created in terms of a will, on the founder's death, often to hold assets for minor children.
Discretionary trust	The trustees decide if, when and how much each beneficiary receives. The most common, and most flexible, for families.
Vesting (bewind) trust	Beneficiaries have a fixed, vested right to the assets or income; the trustees administer on their behalf.
Special trust (Type A)	For a person with a disability; taxed on the individual sliding scale, not at 45%.
Special trust (Type B)	A testamentary trust for the minor relatives of the deceased; also taxed on the individual scale.

The people in a trust

Who is who

- **The founder (or donor):** the person who creates the trust and provides the initial assets.
- **The trustees:** the people legally responsible for holding and administering the trust assets for the beneficiaries.
- **The beneficiaries:** the people who may benefit from the trust, whether of income, capital, or both.
- **The independent trustee:** a trustee who is not a beneficiary and not related to the founder or beneficiaries, who brings objectivity and oversight.

JACC insight

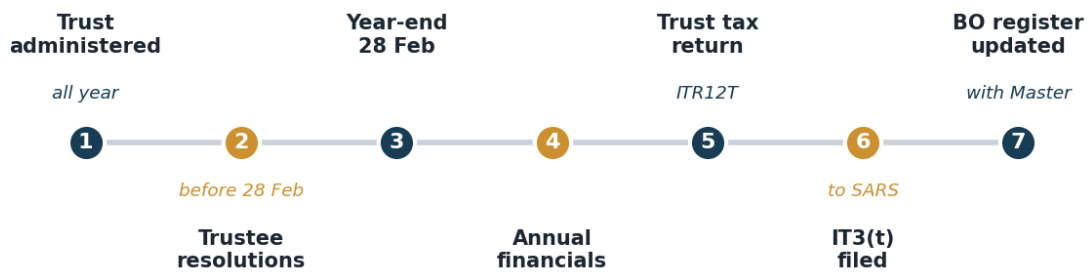
The Master commonly requires an independent trustee in many family trusts, particularly where the circumstances warrant it, and it is good practice in any event. An independent trustee who genuinely applies their mind is one of the strongest protections against a later claim that the trust is a sham.

■ Setting up a trust

Deed, registration and Letters of Authority

A trust is generally established by a trust deed, or by a will in the case of a testamentary trust. The trustees, however, may not lawfully act until the Master of the High Court has issued Letters of Authority under section 6 of the Trust Property Control Act 57 of 1988. Doing so may expose the trustees to personal liability and may render purported acts open to challenge.

- The trust deed sets out the founder, trustees, beneficiaries, powers and how the trust is wound up. Get it professionally drafted; a weak deed causes problems for the life of the trust.
- The trust is registered with the Master, who issues the Letters of Authority naming the trustees.
- The trust is registered for income tax with SARS.
- A trust bank account is opened in the name of the trust.



The annual trust compliance cycle, from administration through to the IT3(t) and the beneficial ownership register.

Common trust pitfall

Acting before the Master issues Letters of Authority is invalid and can expose the trustees personally. Do not sign contracts, open accounts or buy assets in the trust's name until the Letters are in hand.

■ A trustee's core duties

The standard expected of you

A trustee must act with the care, diligence and skill that can reasonably be expected of a person who manages the affairs of another. That is a higher standard than managing your own affairs. The core duties are to:

- Act in good faith and in the best interests of the beneficiaries, in line with the deed.
- Act jointly with your co-trustees; trustees must take decisions together, not individually.
- Keep trust property entirely separate from your own.
- Avoid conflicts of interest, and never benefit personally except as the deed allows.
- Apply your own mind to every decision, rather than simply doing what the founder wants.
- Account properly: keep records, minutes and financial statements.

■ The biggest risk: a sham or alter-ego trust

Run it, or lose it

The greatest risk to a trust is the founder continuing to treat the assets as their own, with the trustees rubber-stamping whatever the founder decides. Where that happens, a court can find the trust to be the founder's alter ego and look straight through it, exposing the assets to creditors, to a divorcing spouse, or to SARS. Our courts have made clear, since cases such as *Land and Agricultural Bank v Parker*, that a trust must be administered as a separate entity, with real, joint trustee decision-making.

Charlton's insight

If the only person who ever makes a decision is the founder, you do not really have a trust, you have a problem waiting to happen. Proper trustee meetings, real debate, an active independent trustee and clean minutes are not red tape. They are the very things that make the trust stand up when it is challenged.

■ When a trustee can be personally liable

Getting it wrong has consequences

Trusteeship carries real personal exposure. Trustees who breach their duties may incur personal liability, and where trustees act together in breach of trust they may, in appropriate circumstances, be held jointly and severally liable. You can become personally liable where you:

- act before the Master has issued Letters of Authority;
- act outside the powers given by the trust deed;
- act alone where the deed requires the trustees to act jointly;
- are negligent, or fail to exercise reasonable care, skill and diligence;
- have a conflict of interest or benefit improperly from the trust;
- commit a breach of trust that causes loss to the beneficiaries; or
- stand by while a co-trustee breaches the trust, without objecting.

The best protection is to do the job properly: act jointly, keep records and minutes, take advice on anything unfamiliar, and have your dissent recorded if you disagree with a decision.

Common trust pitfall

Signing trustee resolutions you have not read, or letting one dominant trustee run everything, does not shield you. As a trustee you remain personally accountable, so understand every decision you put your name to.

■ Meetings, resolutions and records

The trustee paper trail

Trustees must take decisions jointly and record them. A trust with no minute book, or with resolutions signed only when SARS or the bank asks, is vulnerable. Keep:

- A minute book of trustee meetings and the decisions taken.
- Written resolutions for distributions, loans, investments and major decisions.
- Annual financial statements for the trust.
- The trust's loan accounts, especially any loan from the founder.
- Records of every distribution and the resolution that authorised it.

The annual trustee checklist

Once a year, the trustees should be able to tick off the following. We run this with our trust clients each year:

- Trustee meeting held and minuted.
- Resolutions signed, before year-end where they affect tax.
- Distributions to beneficiaries considered and recorded.
- Loan accounts reviewed, including any section 7C implications.
- Beneficial ownership register checked and updated with the Master.
- Annual financial statements prepared.
- Trust income tax return (ITR12T) and the IT3(t) submitted.

■ The trust bank account and accounting

All trust money must run through a bank account in the name of the trust, kept entirely separate from the trustees' personal money. The trustees must prepare annual financial statements, which the Master can call for at any time, and which form the basis for the trust's tax return and the IT3(t).

■ The beneficial ownership register

Section 11A of the Trust Property Control Act

Since 2023, trustees must establish and keep a register of the trust's beneficial owners, lodge it with the Master, and keep it up to date. This flows from South Africa's anti-money-laundering reforms and the greylisting response. For a trust, the beneficial owners include the founder, the trustees, the named beneficiaries, and anyone who otherwise exercises effective control. Keep the register updated whenever the trustees, founder, beneficiaries or persons exercising effective control change.

Common trust pitfall

A trust without an up-to-date beneficial ownership register is not in good standing, and trustees can face penalties. Accountable institutions, such as banks, must also record the beneficial owners, so a missing register quickly causes practical problems.

See also: Trust Property Control Act 57 of 1988, as amended by the General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Act 22 of 2022.

■ Reporting to SARS: the IT3(t)

Trustees must submit an IT3(t) return to SARS each year, reporting the amounts vested in beneficiaries, including income, capital gains and distributions. SARS matches this third-party data to the beneficiaries' own returns, so it must be accurate and consistent. The trust also files its own annual income tax return (the ITR12T).

■ How a trust is taxed

Rates and the conduit principle

Type of trust	Income tax	CGT effective rate
Trust other than a special trust	45% (flat)	36%
Special trust (Type A or Type B)	Individual sliding scale	18% maximum

The conduit principle (section 25B)

Income that vests in a beneficiary in the same year of assessment is taxed in the beneficiary's hands, often at a lower rate than the trust's flat 45%. This is the conduit principle. To rely on it, the trustees must resolve to vest the income in that beneficiary, in writing, and the vesting must occur during the relevant year of assessment.

Attribution (section 7)

Attribution rules can override the conduit principle. Where a person donated or transferred assets to the trust, the income from those assets may be taxed back in that person's hands under section 7. This is designed to stop simple income-splitting, and it means distributions must be planned, not made as an afterthought.

Dividends tax (section 64E)

Many trusts hold shares. Dividends from South African companies carry dividends tax at 20%, withheld at source under section 64E before the trust receives them. Where the trust vests a dividend in a beneficiary under the conduit principle, the dividend keeps its nature in the beneficiary's hands, but the 20% has already been withheld.

Planning opportunity

Pass and minute your distribution resolutions before 28 February each year. A resolution dated after year-end cannot vest income in that year, and the trust then pays tax at 45%. A short, properly minuted annual trustee meeting protects the tax position and the validity of the trust at the same time.

■ Loans to a trust

Section 7C

Where the founder or a connected person lends money to the trust interest-free or at a low rate, section 7C of the Income Tax Act treats the interest forgone, below the official rate, as an ongoing annual donation. This uses up the lender's R150 000 annual donations exemption and, beyond that, triggers donations tax at 20%.

- The official rate is the repurchase rate plus one percent, as defined from time to time.
- The deemed donation arises on the last day of the trust's tax year, every year the loan is outstanding.
- You can avoid it by charging interest at the official rate, but that interest is then taxable in the lender's hands.
- Loans, the founder's contribution and the funding structure should be reviewed annually.

Common trust pitfall

The section 7C donation must be dealt with every single year, not once. Forgetting it is one of the most common trust errors, and it quietly builds a donations tax liability. We review trust loan accounts annually for exactly this reason.

■ Trusts in estate planning

Pegging growth and protecting assets

A trust caps the growth of your personal dutiable estate, because future growth in the trust assets accrues in the trust and not in your hands. Combined with the annual donations exemption and careful funding, it is a long-term estate-planning tool, not a quick fix. It must be weighed against the 45% rate, the running costs and the section 7C rules.

When the founder dies, section 9HA of the Income Tax Act treats them as disposing of their assets at market value for capital gains tax, with a roll-over to a surviving spouse. A loan account owed to the founder by the trust remains an asset in the founder's estate and is dutiable for estate duty, so the funding loan needs to be managed during the founder's lifetime rather than left to grow.

Common estate pitfall

A trust is not a substitute for a properly drafted will. You still need a valid, current will for the assets you hold personally, including any loan account owed to you by the trust. Clients often assume the trust covers everything; it does not.

See also: Our JACC Estate Planning and Deceased Estates guides.

■ Changing trustees, amending the deed, ending a trust

Trustees change over time. Any new trustee must be authorised by the Master before acting, and the Letters of Authority are reissued. The trust deed can usually be amended within limits, but amendments that prejudice beneficiaries who have accepted benefits need care. A trust ends when its purpose is achieved or its term expires; the trustees then distribute the remaining assets in terms of the deed and report to the Master.

■ What it costs to run a trust

A trust has real running costs that should be weighed against its benefits: the once-off cost of drafting and registering the deed, annual financial statements and tax returns, the IT3(t) and beneficial ownership filings, trustee remuneration where the deed allows it, and the cost of an independent trustee. For a modest asset base, the cost and admin can outweigh the benefit, which is part of the advice we give before you set one up.

■ When a trust is not appropriate

Honest advice

A trust is not right for everyone, and we will tell you when it is not worth it. A trust is often unnecessary where:

- the estate is modest, so the running costs outweigh any benefit;
- the main asset is a single home that the family will simply inherit;
- there is no real succession, control or protection issue to solve;
- there is no long-term plan that the trust would actually serve; or
- the founder is not willing to give up genuine control of the assets.

Planning opportunity

If a trust is not the answer, a well-drafted will, sensible beneficiary nominations and ordinary estate planning usually achieve what you need at a fraction of the cost and admin. Setting up a trust that is never properly run is worse than having no trust at all.

■ Common trust pitfalls

- The founder treating trust assets as their own, risking a sham or alter-ego finding.
- Acting before the Master issues Letters of Authority.
- Trustees not meeting, or signing resolutions only when SARS or the bank asks.
- Distribution resolutions passed after year-end, losing the conduit benefit.
- Overlooking the annual section 7C donation on a founder's loan.
- No, or an out-of-date, beneficial ownership register with the Master.
- Missing the IT3(t), or filing figures that do not match the beneficiaries' returns.
- No independent trustee on a family trust.

■ Frequently asked questions

Is a trust still worth it at a 45% tax rate?

Often yes, for protection and succession, because income vested in beneficiaries is taxed in their hands, not at 45%. The structure must be run properly to deliver the benefit.

Can I be a trustee and a beneficiary?

Yes, but not the only trustee and the only beneficiary, and the Master commonly requires an independent trustee in family trusts. A trust where one person controls and benefits from everything is not a valid trust.

Do trustees get paid?

Only if the trust deed allows it. Trustee remuneration must be reasonable and properly authorised.

What is section 7C, in one line?

If you lend money to your trust interest-free, the interest you give up is treated as a donation each year, which can trigger donations tax.

How is a trust taxed when it distributes income?

Under the conduit principle, income vested in a beneficiary in the same year is taxed in that beneficiary's hands, provided the trustees resolve to vest it before year-end.

■ Glossary of terms

Founder / donor The person who creates the trust and provides the initial assets.

Trustee A person legally responsible for holding and administering the trust assets for the beneficiaries.

Beneficiary A person who may benefit from the trust, of income, capital, or both.

Letters of Authority The Master's authorisation, without which a trustee may not act.

Inter vivos trust A trust created during the founder's lifetime.

Testamentary trust A trust created in terms of a will, on death.

Discretionary trust A trust where the trustees decide what each beneficiary receives.

Special trust A trust for a person with a disability (Type A) or minor relatives of the deceased (Type B), taxed on the individual scale.

Conduit principle The rule (section 25B) that income vested in a beneficiary in the same year is taxed in that beneficiary's hands.

Section 7C The rule treating interest forgone on a low-interest loan to a trust as an annual donation.

Alter-ego trust A trust run as the founder's own, which a court can look through, exposing the assets.

IT3(t) The annual SARS return reporting amounts vested in trust beneficiaries.

■ How we can help

Jansen Accountants & Auditors

We are a Cape Town firm of chartered accountants and registered auditors, and registered tax practitioners. We help clients get this right the first time, and fix it when it has gone wrong.

- Trust formation, trust deeds and Letters of Authority.
- Annual trust financial statements, tax returns (ITR12T) and the IT3(t).
- Beneficial ownership registers and Master's office compliance.
- Section 7C loan reviews, distribution planning and trustee support.



Talk to us.

Book a consultation at www.jacc.co.za, call +27 21 554 3482, or email info@jacc.co.za.

■ Important notice

This guide does not constitute personal advice. It is general information based on South African law and practice as at June 2026, and must not be relied on as advice. Outcomes depend on the specific facts, and the law and regulatory practice change. Jansen Accountants & Auditors Inc accepts no liability for any loss arising from reliance on this guide. Obtain advice specific to your circumstances before acting.

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