



INVEST BETTER *with* BRENTHURST

IN THIS ISSUE

Discover how recent regulatory changes now allow South African trusts to distribute funds offshore - a game-changer for global estate planning and long-term wealth protection.

We break down the key steps, risks and opportunities in a clear, practical guide.

INVESTING WITH SA'S

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TRANSFERRING WEALTH FROM SA TRUSTS TO OFFSHORE TRUSTS

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Do you have cash tied up in a South African inter vivos trust and want to invest directly offshore? A significant shift occurred at the end of 2024 when SARS clarified its stance on trusts applying for approval to make distributions directly to offshore trusts. This opens new pathways for individuals wishing to externalise funds without first distributing those assets into their personal estates.

A NEW ERA FOR OFFSHORE TRUST DISTRIBUTIONS

Traditionally, South African trusts had limited access to offshore investments. Since they do not qualify for foreign investment allowances, moving funds to offshore trusts - especially those with SA-resident beneficiaries - was tightly regulated.

However, under the new dispensation, trustees can transfer funds to offshore jurisdictions without using the personal allowances of individual beneficiaries. With the right approvals - first from SARS and then from the South African Reserve Bank (SARB) - local trust structures can now facilitate offshore transfers, enabling greater investment diversification and strategic international tax planning.

This development enhances estate planning flexibility while preserving the core benefits of using trusts: wealth protection, intergenerational succession planning and providing for dependants.

HOW IT WORKS: STEP BY STEP

1. ASSESS TRUST ASSETS:

SARS refers to the “release of funds/amounts” in its update, implying that only cash transfers between trusts are permitted at this stage. Transfers of immovable property or shares are currently excluded.

2. WHY IS SARS ALLOWING THIS?

The answer lies in tax compliance and capital gains tax (CGT). Realising assets to convert them into cash will trigger CGT at an effective rate of 36% (80% of 45%), with no exclusions—not even for a primary residence.

3. PREPARE BOTH TRUSTS:

To proceed, the offshore trust must be created, and the SA trust deed must be amended to name the offshore trust as a beneficiary.

4. OBTAIN THE APPROVALS:

This involves:

- Ensuring the SA trust is fully tax compliant,
- Updating trust deeds,
- Applying for SARS manual tax clearance, and
- Submitting a SARB application via an authorised dealer.

Note: This process only applies to inter vivos trusts. Testamentary (mortis causa) trusts set up through wills cannot be amended, and existing offshore testamentary trusts also don't qualify.

IMPORTANT CONSIDERATIONS

Even though SARS has clarified its view, SARB has not yet issued a formal circular on this matter. As a result, each application is assessed on a case-by-case basis. SARB may impose conditions, such as requiring the repatriation of distributions within 30 days, unless the offshore trust's beneficiaries have approval to retain the funds abroad.

THIS IS NOT A ONE-SIZE-FITS-ALL SOLUTION. IT WILL DEPEND ON:

- The type and value of assets in the SA trust,
- Beneficiary circumstances,
- Available liquidity to run the offshore trust, and
- The tax compliance history of the local trust.

Tax consequences, anti-avoidance provisions and attribution rules must be carefully considered. Trustees are strongly advised to seek specialist tax advice before pursuing this route.



HOW WE CAN HELP

At Brenthurst Wealth, we work closely with our Mauritius-based trust management sister company, Brent Consulta, to provide end-to-end assistance:

- Tax compliance for SA trusts,
- Setting up offshore trusts in Mauritius,
- Amending SA trust deeds,
- Handling all approvals and forex processes, and
- Managing and investing the offshore trust's portfolio once funds are transferred.



ROZANNE HEYSTEK-POTGIETER | CFP®, BRENTHURST PAARL - VAL DE VIE

Rozanne is a CERTIFIED FINANCIAL PLANNER® professional, a member of the Financial Planning Institute of SA and is fully qualified to give advice on all investment matters. Rozanne is also a fiduciary services specialist, focused on strategic local and cross-border estate planning, will drafting, deceased estate administration and trust administration.

With 13 years experience in the financial services industry, her credentials span from being a CFP®, admitted attorney, holding a BA in International Studies & Psychology (Monash University), a LLB Degree (UNISA), a Postgraduate degree in Financial Planning (UFS) and a certificate in International Trust Management (Society of Trust and Estate Planners).

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