

Deregistration / Termination of a Trust

The termination of Trusts should be carefully considered before proceeding, as various tax and estate implications will be triggered. Distributing assets out of the trust is a deemed disposal and the transaction could trigger capital gains tax. Should immovable property form part of the assets distributed, transfer duties may also be applicable. All assets distributed to beneficiaries will also now form part of their personal estates and as such is open to creditor risk and will form part of the deceased estate for tax purposes.

The Trust Property Control Act 57 of 1988 makes no specific provision for the termination or deregistration of a Trust. The deregistration of a Trust is an internal administrative action to facilitate the management of Trust files in the offices of the Master of the High Court.

Common law however makes provision for the termination of a Trust by operation of law in the following circumstances:

- by statute,
- fulfillment of the object of the trust,
- failure of the beneficiary,
- renunciation or repudiation by the beneficiary,
- destruction of the trust property,
- or the operation of a resolute condition.

If a trust can be terminated on one of the above grounds or if you can satisfy the Master of the High Court that the trust is no longer needed, that it has served its purpose and that the trust is no longer active; the Master generally will terminate / deregister a trust.

For the termination of a trust with the Master, the following documents need to be lodged at the Master where the Trust is registered:

- A resolution by Trustees confirming the desire to terminate the Trust;
- The original Letter of Authority;
- The closing bank statement reflecting a nil balance;
- Copy of the last Annual Financial Statements, reflecting zero assets and zero loan accounts;
- Proof that the beneficiaries have received their benefits.

Once acknowledgement of submission is received from the Master you will need to visit your nearest SARS office for the deregistration of the Trust Tax number. SARS will require the following documentation:

- A resolution by Trustees confirming the desire to terminate the Trust;
- A copy of Letter of Authority;
- The closing bank statement reflecting a nil balance;
- Proof that the beneficiaries have received their benefits;
- Copy of the last Annual Financial Statements, reflecting zero assets and zero loan accounts, with the IT34A assessment.



Tel: 044 690 5653
Faks / Fax: 044 690 5675
EPos / Email: imke@idprok.co.za
karin@idprok.co.za
Sel / Cell: 082 411 4367
Website: www.idprok.co.za

1 Kleine Libertas
Kerkstraat 33 Church Str
Posbus / PO Box 2990
Mosselbaai / Mossel Bay
6500