

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 4212 of 12 November, 2015

LEGAL NOTICE NO. 202 OF 2015.

INCOME TAX ACT 2010

INCOME TAX (RETURNS) (AMENDMENT No. 2) NOTICE 2015

In exercise of the powers conferred on him by section 30 of the Income Tax Act 2010, and all other enabling powers, the Minister issued the following Notice—

Title and commencement.

1. This Notice may be cited as the Income Tax (Returns) (Amendment No.2) Notice 2015 and comes into operation on the date of publication.

Amendment to Income Tax (Returns) Notice 2011.

2.(1) The Income Tax (Returns) Notice 2011 is amended in accordance with the provisions of this Notice.

(2) For forms “ITT”, “ITT-A”, “ITT-B” and “ITT-C” which appear under paragraph 2 substitute the following forms—

“

Trust Tax Return

SECTION 1 - General information

Name of trust

Taxpayer Reference

Year of assessment

SECTION 2 - Details of trustees

Please provide the details requested below, where appropriate, for **each** trustee. If this trust has more than 3 trustees then please provide this additional information in supporting schedules. The date of birth (DOB) or Date of incorporation (DOI) as well as the residential or registered address should be provided for individuals or companies respectively.

Trustee 1 - PRINCIPAL ACTING TRUSTEE

Designated to deal with the Income Tax Office on behalf of the Trust. The actions of the Principal Acting Trustee are treated by the Income Tax Office as representing the actions of all the trustees.

Name

DOB / DOI

Taxpayer reference

Address (Residential / Registered)

Please select the type of this trustee

Professional trustee

Non-professional trustee

Trustee 2

Name

DOB / DOI

Taxpayer reference

Address (Residential / Registered)

Non-professional trustee

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SECTION 2 (Contd.) - Details of trustees

Trustee 3

Name

DOB / DOI Taxpayer reference

Address (Residential / Registered)

Non-professional trustee

SECTION 3 - Details of beneficiaries

Please provide the details requested below, where appropriate, for each beneficiary. If this trust has more than 5 beneficiaries then please provide this additional information in a supplement to this return. The residential / registered address & date of birth / incorporation date should be provided for individuals / companies respectively.

Beneficiary 1 Resident Non-Resident

Name

DOB / DOI Taxpayer reference

Address (Residential / Registered)

Beneficiary 2 Resident Non-Resident

Name

DOB / DOI Taxpayer reference

Address (Residential / Registered)

Beneficiary 3 Resident Non-Resident

Name

DOB / DOI Taxpayer reference

Address (Residential / Registered)

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SECTION 3 (Contd.) - Details of beneficiaries

Beneficiary 4 Resident Non-Resident

Name

DOB / DOI Taxpayer reference

Address (Residential / Registered)

Beneficiary 5 Resident Non-Resident

Name

DOB / DOI Taxpayer reference

Address (Residential / Registered)

SECTION 4 - Analysis of income & capital

PART 1 - Analysis of income of trust for year of assessment

Taxable income <small>(exc. dividend income)</small>	Chargeability of the trust's income to be determined by reference to the provisions of the ITA 2010		£ <input type="text"/>
Non-taxable income		+	<input type="text"/>
Net dividend income <small>(derived from income chargeable under the ITA 2010)</small>		+	<input type="text"/>
Tax credit	£ <input type="text"/>		<input type="text"/>
			<small>MEMORANDUM PURPOSES ONLY</small>
			<small>Not part of the trust income</small>
Total income for the year of assessment			<input type="text"/>

PART 2 - Movement in capital in year of assessment

Capital at start of year of assessment		£ <input type="text"/>
Capital added in year of assessment	+	<input type="text"/>
Capital distributed in year of assessment	-	<input type="text"/>
Capital at end of year of assessment	=	<input type="text"/>

SECTION 5 - Distribution made by the trust

If the trust has made a distribution during the year of assessment please complete this section and attach a distribution return (Form ITT-C).

Has the trust made a distribution in the year of assessment? Y N

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SECTION 6 - Declaration by Principal Acting Trustee

WARNING

Providing false information in this return or the concealment of any part of the trust's income may result in a penalty being incurred in accordance with the provisions of sections 65 or 66 of the Income Tax Act 2010

I declare that the information contained in this tax return is correct and complete to the best of my knowledge and belief.

Signature

Date

A photocopy of a signature is not acceptable

Name of declarant

Any person signing this declaration must be an authorised signatory of the trust and if signing on behalf of a professional trustee must state the name of the individual signing the return and the capacity in which they are authorised to do so.

Professional Trustee - Declaration of compliance & completeness

Year of assessment for which declaration is made <input type="text"/>	
S.28(4) of the ITA 2010 does not require a trust which has at least one trustee who is a professional trustee, as defined therein, from filing a return if neither the trust or its beneficiaries have a liability to tax under the ITA 2010.	
S.28(5) & S.28(6) of the ITA 2010 require each professional trustee of a trust that has no liability to tax under the ITA 2010, or has beneficiaries that have no liability to tax under the ITA 2010, to make an annual declaration which should be made by not later than 30 November following that year of assessment.	
We declare that, to the best of our knowledge and belief:	
<ol style="list-style-type: none">1. that we have filed a return for all trusts for whom we act as a professional trustee that are obliged to file a return by virtue of having a liability to tax under the ITA 2010 or having beneficiaries liable to tax under the ITA 2010; and2. that the trusts for whom we act as a professional trustee that have not filed a return is due to the trust not having a liability to tax under the ITA 2010 or having beneficiaries not being liable to tax under the ITA 2010.	
Signature	Date
<input type="text"/>	<input type="text"/>
<i>A photocopy of a signature is not acceptable</i>	
Name of declarant	
<input type="text"/>	
<i>Any person signing this declaration must be an authorised signatory of the trust and if signing on behalf of a professional trustee must state the name of the individual signing the return and the capacity in which they are authorised to do so.</i>	
YOU WILL BE GUILTY OF AN OFFENCE AND THEREFORE LIABLE TO A PENALTY UNDER SECTION 66 OF THE INCOME TAX ACT 2010 IF A FALSE DECLARATION IS MADE	

SECTION B - Distribution type

There is no pre-determined format in which your workings should be set out and you are welcome to provide these in whatever manner you wish. Please note however it is imperative that supporting calculations and schedules are clear, understandable and adhere to the requirements of the Income Tax Act 2010 (ITA 2010). We will need to check the accuracy of your return and therefore you are required to submit your calculations and schedules.

B (1) - Income or capital of the trust: Guidance for workings and supporting calculations

- Accumulated income must be analysed between 'taxable' income, 'non-taxable' income and 'chargeable dividends' received. 'Taxable' income is income that is derived from chargeable sources of income under the ITA 2010, including net dividends (which are derived from income chargeable under ITA 2010). 'Non-taxable' income is any income that is derived from non-chargeable sources of income under the ITA 2010.
- The analysis referred to above will need to be done for each accounting period since 1 January 2011 and as an aggregate balance in respect of all earlier accounting periods (i.e. in order to determine the opening balances as at 1 January 2011).
- A distribution made by a trust should be matched against the income of the trust in the following order:
 - 1st - Taxed income of the year of assessment.
 - 2nd - Taxed income of preceding years of assessment since 1 January 2011 on a First In First Out ("FIFO") basis.
 - 3rd - Non-taxed income of the year of assessment.
 - 4th - Non-taxed income of preceding years of assessment since 1 January 2011 on a First In First Out ("FIFO") basis.
 - 5th - Capital of the trust.
- A distribution matched to income/capital should be proportionally split between the applicable beneficiaries on a pro rata basis.
- A beneficiary or beneficiaries that are liable to tax on a distribution received are entitled to a set-off against their liability not exceeding the tax paid on the trust.

B (2) - Use of trust asset by beneficiary: Guidance for workings and supporting calculations

The asset may be owned or leased by the trust or any person substantially controlled by the trust (as defined in schedule 4 of the ITA 2010). The benefit derived by a husband or wife from the occupation, under a life interest created under the will of either one of the other, of the principal matrimonial home occupied by both prior to the death of either one of them is not a distribution under the ITA 2010.

SECTION B - Distribution type (contd.)

Quantum of distribution on beneficiary - [1] If the asset is owned by the trust it is the cost to the trust of providing that same asset to the beneficiary on the open market and [2] if the asset is leased by the trust it is the cost to the trust of leasing that asset.

Documentary evidence in support of your cost claim referred to above must be submitted to this Office. The claim may be based on a similar or equivalent asset to the one made available for use. This Office may conduct enquiries as necessary in order to be satisfied with the declaration made.

B (3) - Loan to beneficiary: Guidance for workings and supporting calculations

Income received from a trust includes any loan made by the trust to a beneficiary of that trust or to any person connected with the beneficiary. The meaning of connected person is that given in paragraph 9 of schedule 4 of the ITA 2010.

The balance that should be included is the balance outstanding at the end of the year of assessment for which this return is being filed.

SECTION C - Distribution schedule

- The full name and residential address of each beneficiary who is in receipt of income from the distribution of the trust should be provided. If the beneficiary is a corporate entity then please provide the registered office.
- The distribution schedule should specify whether the beneficiary is ordinarily resident ("OR") or non-resident ("NR"). Only ordinarily resident beneficiaries are liable to tax on distributions received. The definition of ordinarily resident is set out in section 74 of the ITA 2010.
- The taxpayer reference of each beneficiary should be provided in the distribution schedule. If the beneficiary has not previously been registered with the Income Tax Office, this should be done immediately so that a reference may be allocated to them and they are correctly assessed to tax.
- A credit is provided to the beneficiary in respect of the tax already suffered on the income being distributed. Trusts are liable to tax at the standard rate of tax. The amount of credit allowed on the beneficiary is limited to the tax paid by the trust or the dividend credit utilised by the trust to set-off its tax liability.
- The gross income of the beneficiary is the amount received from the distribution including the tax credit (i.e. the amount on which the beneficiary will be assessed). The credit will be provided as a set-off once the beneficiary's own tax assessment is prepared.

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SECTION C - Distribution schedule

Name of beneficiary	Taxpayer's Residence	R / NR	Net distribution made	Tax credit*	Gross income
<input type="text"/>	<input type="text"/>	<input type="text"/>	£	£	£
<input type="text"/>	<input type="text"/>	<input type="text"/>	£	£	£
<input type="text"/>	<input type="text"/>	<input type="text"/>	£	£	£
<input type="text"/>	<input type="text"/>	<input type="text"/>	£	£	£

* This credit limited to tax paid by trust or debited credit allowed by trust in respect of its liability to tax

SECTION D - Declaration

The information presented in this return is correct and complete to the best of my knowledge and belief.

Signature:

Name of declarant:

Date:

A photocopy of a signature is not acceptable.
Any person signing this declaration must be an authorized signatory of the trust and sign only on behalf of a professional trustee (trust) state the name of the individual signing the return and the capacity in which they are authorized to do so.

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Dated 12th November, 2015.

F R PICARDO QC,
Minister with responsibility for the economy and finance.

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