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Instructions for Income Tax Return for Trusts and Estates (Form S128-TE) For Year Ended 31 March 2018

General Instructions

Which Trusts and Estates Must File an Income Tax Return

A trust is a legal arrangement in which an individual (the "grantor") gives fiduciary control of property to a person or institution (the "trustee") to benefit beneficiaries. For tax purposes, a trust is a separate taxable entity and it includes the estate of a deceased person. A trust does not include a grantor trust or a qualified beneficiary trust (as defined below).

The term "trustee" includes:

- An executor, administrator, tutor, or curator; and
- A liquidator or judicial manager; and
- A person having or taking on the administration or control of property subject to a trust; and
- A person acting in a fiduciary capacity; and
- A person having the possession, control, or management of the property of a person under a legal disability.

A trust (except a Lesotho Unit Trust) or an estate is required by law to file a return of its total income from all sources (except income exempt from tax) for the assessment year ended 31 March 2018. In addition, the beneficiaries are responsible for filing their own income tax returns and paying any tax due on the share of trust income to which the beneficiary is presently entitled. The share of the trust's or estate's income taxed to a non-resident beneficiary includes only the Lesotho-source income to which that beneficiary is presently entitled.

A Lesotho Unit Trust (as established in terms of the deed under the Lesotho Unit Trust Act, 2003) is exempt from all taxes under the Income Tax Act 1993. The unit holders must include in income any returns realised from the Unit Trust, except as provided under section 83C of the Income Tax Act 1993.

Grantor trust. A grantor trust is a trust in which the grantor has (either in whole or in part) (a) the power to revoke or alter the trust so as to acquire a beneficial interest in the corpus or income or (b) a reversionary interest in either the corpus or income.

Qualified beneficiary trust. A qualified beneficiary trust is (a) a trust in which a person has a power solely exercisable by that person to vest the corpus or income in that person or (b) a trust whose sole beneficiary is an individual or an individual's estate or appointees.

A grantor trust or a qualified beneficiary trust is not treated as a separate taxable entity from the grantor or beneficiary, respectively. Report income from a grantor trust directly on the grantor's return and from a qualified beneficiary trust directly on the beneficiary's return.

How are Trusts and Estates Taxed?

The income of a trust or estate is taxed to the trust, estate, or to the beneficiaries as explained below. All references below to trusts include estates.

The trust is taxed on chargeable trust income. Chargeable trust income is figured by subtracting from trust income the amount included in any beneficiary's gross income, and for a non-resident beneficiary, the amount which would have been included in the beneficiary's gross income if the beneficiary had been a resident.

The trustee is liable for income tax on so much of the chargeable trust income that is:

- Lesotho-source income, and
- Foreign-source income where the grantor of the trust was a resident at the time of the transfer to the trustee, is a resident in the assessment year, or where a resident may ultimately benefit from the income.

In the case of a deceased's estate, the following income is taxed to the estate:

- Taxable income accrued or received by the deceased person in the assessment year and prior to his or her death, and
- Income accrued or received by the estate after the deceased person's death and arising from an income-producing activity of the deceased person before his or her death.

Trustees are jointly and severally liable for the tax liability arising from trust income that is not satisfied from trust assets, but any trustee required to meet such liability is entitled to a contribution from each of the other trustees.

The gross income of a resident beneficiary includes the share of trust income to which the beneficiary is presently entitled. The gross income of a non-resident beneficiary includes the Lesotho-source income of the trust to which the beneficiary is entitled. No beneficiaries are entitled to deduct a loss from a trust.

When To File

The trust or estate return must be filed no later than 30 June 2018. If the trust or estate is unable to file by the due date, it may apply in writing to the Commissioner Domestic Taxes for an extension of time to file. An extension to file does not affect the due date for payment. The trust or estate also may apply in writing to the Commissioner Domestic Taxes for an extension of time to pay if it can show good cause for not paying on time.

Penalties and Interest

There are penalties if the trust or estate fails to file the return on time or pay the tax when due, including the possibility of imprisonment of the nominated officer. Interest is also charged if the trust or estate does not pay the tax on time.

How To Complete the Return

Complete only those parts of the return that apply to the trust or estate. Express all figures in Maloti. Be sure to read the line instructions, if any, that apply to the line you are completing. If there are no instructions for a line, that line is considered self-explanatory. Finally, be sure the nominated officer of the trust or estate signs the declaration at the bottom of page 9. Also, be sure that the person the trust or estate paid to prepare the tax return signs the declaration of paid preparer on page 9.

Specific Instructions

Part A – Employment Income & Expenses

Part A, Line 1

Employment information. Employment income means any payment, benefit, or gift arising from employment. This includes all gains (regardless of their nature) arising from the employment relationship. Examples of employment income include:

- Wages.
- Salary.
- Overtime pay.
- Leave pay or payment in lieu of leave.

- Sick pay.
- Strike pay.
- Return to work payments.
- Commissions.
- Bonuses.
- Gratuities (but see discussion of terminal benefits below).
- Allowances (including responsibility, recruitment, and retention allowances).
- Stipends.
- Payments in return for a restrictive covenant given by a former employee.
- Non-exempt fringe benefits not taxable to the deceased's employer (such as school fees, personal travel expenses, and other personal expenditures).

This list is not all-inclusive.

When reporting employment income on this form, **do not** include in Part A:

- Pension income, including periodic payments made to the deceased from a retirement annuity or superannuation fund. Report these amounts in Part B.
- Repayment of expenses the deceased incurred for the deceased's employer if that employer would have received a deduction for those expenses if incurred directly. Such amounts are exempt from income tax.
- Employment income earned and taxed in a foreign country. This income is exempt from income tax.
- Terminal benefits that do not exceed 25% of the deceased's basic salary earned during the period of employment. This portion of the deceased's terminal benefits is exempt from income tax and should not have been included in employment income on the deceased's Form P.16. Terminal benefits are the total of the following amounts:
    a. Contract gratuity payments. These payments are gratuities, expressed as a percentage of salary earned during the contract period, and paid to the deceased upon expiry, termination, or renewal of a written contract of employment.
    b. Severance payments. These are payments required upon termination of an employee's services under section 79 of the Labour Code Order 1992.
    c. Lump-sum payments from a complying superannuation fund. The taxable excess portion of such payments is included in gross income if the deceased's estate elected not to be taxed at the standard rate of 25% on the taxable excess. If the deceased's estate did not make this election, such payments are not reported on this return.
    d. Lump-sum payments from a non-complying superannuation fund. The taxable excess portion of such payments is included in gross income.
- Fringe benefits the deceased received but the deceased's employer has paid tax on. These include fringe benefits for use of a motor vehicle for private purposes, employer-provided housing, employer-paid utilities, employer-provided domestic assistance, non-exempt employer-provided meals, non-exempt medical benefits, loans at below-market interest rates, waiver of debts owed to an employer or owed to someone else and paid by the deceased's employer, and excessive superannuation contributions made by a tax-exempt employer.
- Exempt fringe benefits (such as exempt meals and refreshments provided to all non-casual employees on equal terms and exempt medical fringe benefits available to all non-casual employees on equal terms). This income is exempt from tax.

On line 1a, show the name and TIN of the deceased's main employer where the deceased worked during the assessment year. On lines 1b and 1c, show the names and TINs of any previous or secondary employers where the deceased worked during the assessment year. If the deceased had more than three employers during the assessment year, attach a list with the additional information.

Enter the deceased's gross employment income for each employer in the space in the right-hand column on line 1a, 1b, or 1c. This amount should

be shown in the taxable income box at the bottom right corner of Form P.16, Certificate of Total Emoluments and Tax Deducted Year End 31 March 2018. The deceased's estate should have received this form from the deceased's employer either by 28 April 2018 or within 7 days of the date the deceased's employment ended (if it ended during the assessment year). Ask the deceased's employer for this form, if the deceased's estate did not receive it. Attach the second copy of Form P.16 to the deceased's estate tax return. Keep the first copy for the deceased's estate records. On line 1d, add the amounts shown on lines 1a, 1b, and 1c, plus the amounts shown on the attached list if the deceased had more than 3 employers.

Part A, Lines 2a through 2e

Unreimbursed employment-related expenses. These are employment-related expenses that the deceased paid out of pocket that the deceased's employer did not pay back to the deceased. Do not include on these lines any amounts for which the deceased was paid back or received a subsistence allowance from the deceased's employer.

Part A, Line 2a

Travel expenses incurred for work. "Travel expenses" means fares; registration fees for any conference, seminar, or convention; and meals, accommodation, and other expenses incidental to travel. Travel expenses **do not** include entertainment expenses or an expense or portion of an expense attributable to a relative accompanying the deceased.

Travel expenses the deceased incurred in the course of the deceased's employment are deductible, subject to the following rules:

- If the expense was incurred by more than one person, the expenses must be divided equally among the individuals to whom the expense was attributable.
- If the deceased was not primarily engaged in employment activities on every day of a particular trip, the deductible amount is determined by multiplying the deduction by a fraction equal to the number of days the deceased was primarily engaged in employment activities during the trip divided by the total number of days the deceased was traveling. The deceased was treated as engaged in an employment activity while in transit and on any day that is a weekend or public holiday where the deceased engaged in business on the days both before and after the weekend or public holiday.

Substantiation required. To claim this deduction, the deceased's estate must keep in its records for at least 4 years:

- A travel diary that the deceased filled in at the time of each trip showing:
    a. The dates of departure and return for a trip,
    b. The destination or locality of travel,
    c. For each day of travel, the activities the deceased undertook while at the travel destination, and
    d. The amount of any expense the deceased incurred on each day of travel for which a receipt is not required.
- Receipts for fares, registration fees, or accommodation, regardless of amount.
- Receipts for any other expense greater than M 50.

Do not attach the diary or receipts to the deceased's estate tax return.

Minimum deductible amount of overall unreimbursed employment-related expenses. The sum of the deductions on lines 2a, 2c, 2d, and 2e must **exceed** both M 2,500 and 5% of the deceased's estate gross income (Part A, line 1d + Part B, line 2c + Part C, line 1 minus line 2a + lines 4 and 5 + Part D, line 1 minus line 2a + lines 4 and 5 + Part E, lines 2, 5d, 8, and 9 + Part F, line 1). Otherwise, no deduction is allowed on lines 2a, 2c, 2d, or 2e.

Part A, Line 2b

Education expenses to improve work knowledge or skills. If the deceased incurred expenses in order to maintain or improve skills and knowledge required in the

deceased's current employment, such expenses are deductible, subject to the following rules:

- The sum of such expenses incurred by the deceased during the year of assessment exceeds M 1,000.
- The expenses are for enrolment and tuition fees; examination fees; or books, stationery, and other materials the deceased purchased to undertake the deceased's study.
- The expenses incurred will not lead to a degree or diploma (that is, a formal qualification).

Part A, Line 2c

Expenses for technical and trade books and journals and association subscriptions. The following expenses the deceased incurred that are related to the deceased's employment are deductible:

- Books, journals, and other publications.
- Subscriptions to any trade or professional association, including a trade union.

Minimum deductible amount of overall unreimbursed employment-related expenses. The sum of the deductions on lines 2a, 2c, 2d, and 2e must exceed both M 2,500 and 5% of the deceased's estate gross income (Part A, line 1d + Part B, line 2c + Part C, line 1 minus line 2a + lines 4 and 5 + Part D, line 1 minus line 2a + lines 4 and 5 + Part E, lines 2, 5d, 8, and 9 + Part F, line 1). Otherwise, no deduction is allowed on lines 2a, 2c, 2d, or 2e.

Part A, Line 2d

Motor vehicle expenses incurred for work. "Motor vehicle expenses" means expenses or losses the deceased incurred:

- For the operation, maintenance, and repair of a motor vehicle,
- To borrow money for the purpose of acquiring a motor vehicle, including interest on the money borrowed,
- To lease a motor vehicle, including rental payments under the lease,
- For depreciation of a motor vehicle the deceased owned. Calculate the deceased's estate depreciation deduction following the instructions for Part C, line 2e.

If the deceased incurred expenses for the use of the deceased's vehicle in the course of the deceased's employment, the deceased's estate may deduct either the actual expenses incurred or M 1 per km travelled by the vehicle on employment-related travel. The cost of commuting between the deceased's residence and work is not considered to be in the course of the deceased's employment and is not deductible.

If the deceased did not use vehicle exclusively for employment-related travel, the deductible amount for actual expenses is determined by multiplying the deduction by a fraction equal to the distance travelled on employment-related travel divided by the total distance travelled by the vehicle during the year of assessment.

Substantiation required. To claim this deduction, the deceased's estate must keep in its records for at least 4 years, a daily log book that the deceased filled in at the time of each trip showing:

- The total distance traveled by the vehicle each day,
- The distance travelled by the vehicle on employment-related travel,
- The destination,
- The object in making the trip, and
- If the deceased's estate is claiming actual motor vehicle expenses, the vehicle expenses the deceased incurred.

Minimum deductible amount of overall unreimbursed employment-related expenses. The sum of the deductions on lines 2a, 2c, 2d, and 2e must exceed both M 2,500 and 5% of the deceased's estate gross income (Part A, line 1d + Part B, line 2c + Part C, line 1 minus line 2a + lines 4 and 5 + Part D, line 1 minus line 2a + lines 4 and 5 + Part E, lines 2, 5d, 8, and 9 + Part F, line 1). Otherwise, no deduction is allowed on lines 2a, 2c, 2d, or 2e.

Part A, Line 2e

Home office expenses. A "home office" is the portion of the deceased's principal residence that the deceased used:

- Exclusively and on a regular basis as the deceased's principal place of work, and
- For the convenience and at the request of the deceased's employer.

A "residence" includes a house, apartment, or similar property and all structures or other property connected to the residence (but not any portion the deceased exclusively rented out to others as a hotel, motel, inn, or similar establishment).

A "home office expense" is an expenditure the deceased incurred:

- To borrow money for the purpose of acquiring a principal residence, including interest on the money borrowed,
- To lease a principal residence, including rental payments under the lease,
- To insure the deceased's principal residence and its contents,
- For heating and lighting of the deceased's principal residence,
- For maintaining the deceased's home office, or
- For depreciation and repair of the furniture and equipment used in the home office. Calculate the deceased's estate depreciation deduction following the instructions for Part C, line 2e.

If a home office expense is not wholly attributable to the home office, the deductible amount for that expense is determined by multiplying the expense by a fraction equal to the floor area of the deceased's home office divided by the total floor area of the deceased's principal residence.

Minimum deductible amount of overall unreimbursed employment-related expenses. The sum of the deductions on lines 2a, 2c, 2d, and 2e must exceed both M 2,500 and 5% of the deceased's estate gross income (Part A, line 1d + Part B, line 2c + Part C, line 1 minus line 2a + lines 4 and 5 + Part D, line 1 minus line 2a + lines 4 and 5 + Part E, lines 2, 5d, 8, and 9 + Part F, line 1). Otherwise, no deduction is allowed on lines 2a, 2c, 2d, or 2e.

Part A, Line 2f

Contributions the deceased made to a complying superannuation fund. Enter the amount of the:

- Contributions the deceased paid to a complying employer superannuation fund, but not more than 20% of the employment income paid to the deceased by the employer sponsoring the fund, plus
- Contributions the deceased paid to a complying self-provided superannuation fund, but not more than:
    a. 20% of the deceased's estate gross income (Part A, line 1d + Part B, line 2c + Part C, line 1 minus line 2a + lines 4 and 5 + Part D, line 1 minus line 2a + lines 4 and 5 + Part E, lines 2, 5d, 8, and 9 + Part F, line 1), minus
    b. The total contributions the deceased and the deceased's employers paid to complying employer superannuation funds.

If the deceased had business income, commercial farming income, property income, or other income, you must allocate any contributions to a complying self-provided superannuation fund in a reasonable manner (such as in proportion to the gross income from each activity) and include the allocated amounts on Part A, line 2f; Part C, line 2g; Part D, line 2g; Part E, line 3h or line 6; and Part F, line 2.

Part A, Line 2g

Donations paid to the Lesotho Sports and Recreation Commission. The deceased's estate may deduct a charitable deduction of M 1,000 or more in cash or the value of goods and services to:

- Support sport and recreation development through the provision of sports equipment and facilities, and
- Provide sponsorship of different sports codes and sport competitions and tournaments at different levels of the sports development continuum.

The donation must be paid to the Lesotho Sports and Recreation Commission for distribution to the beneficiary sporting association body, team, or individual athlete as stipulated by the donor in a letter of donation. The donation may be

disallowed if it was indirectly meant to benefit the deceased, members of the deceased's family, or the deceased's associates. Include the amount paid from the deceased's employment income on this line; the amount paid from the deceased's pension income on Part B, line 2; the amount paid from the deceased's business income on Part C, line g; the amount paid from the deceased's commercial farming income on Part D, line 2g; the amount paid from the deceased's property income on Part E, line 3h or line 6; and the amount paid from the deceased's other income on Part F, line 2.

Part B – Pension Income

Part B, Line 1

Pension information. A pension is a contract for an amount to be paid regularly to a person, usually following retirement from service. A pension includes periodic payments made to the deceased from a superannuation fund or a retirement annuity. **Do not** include the following amounts on this return:

- A pension related to employment carried on in a foreign country if the pension income was taxed in the foreign country.
- War pensions and gratuities paid by the Lesotho Government on behalf of persons who retired before 11 March 1993.

On line 1a, show the name and TIN of the deceased's main pension payer during the assessment year. On line 1b show the name and TIN of any previous or secondary pension payer during the assessment year. If the deceased had more than two pension payers during the assessment year, attach a list with the additional information.

Enter the deceased's taxable pension income for each pension payer in the space in the right-hand column on line 1aor 1b. This amount should be shown in the taxable income box at the bottom right corner of Form P.16, Certificate of Total Emoluments and Tax Deducted Year End 31 March 2018. The deceased's estate should have received this form from the pension payer by 28 April 2018. Ask the payer for this form, if the deceased's estate did not receive it. Attach the second copy of Form P.16 to deceased's estate tax return. Keep the first copy for the deceased's estate records. On line 1c, add the amounts shown on lines 1a and 1b, plus the amounts shown on the attached list if the deceased had more than 2 pension payers.

Part B, Line 2

Donations paid to the Lesotho Sports and Recreation Commission. See the instructions for Part A, line 2g.

Part C – Business Income & Expenses

Accounting method. Generally, the trust or estate may use either the cash or accrual method of accounting**.** Under the cash method, income is taken into account when received or made available to the trust or estate and expenses are taken into account when paid. Under the accrual method, income is taken into account when earned and expenses are taken into account when incurred.

Exceptions:

- The trust or estate **must** use the accrual method to account for the trust's or estate's business income in all years after the first year the trust's or estate's gross business income exceeds M 150,000.
- The trust or estate **must** use the percentage-of-completion method to account for long-term contracts (relating to manufacturing, installation, or construction). See section 55 of the Income Tax Act 1993.

Lesotho-source income and foreign-source income. Be sure you enter all income and deductions in the correct columns. Income is Lesotho-source income if it is:

- Derived from an activity that occurs in Lesotho; or
- Derived from services performed under a contract entered into with the Lesotho Government; or
- Derived by a resident of Lesotho from services performed as a driver of a

vehicle, or an officer or member of the crew of any vehicle or aircraft, where the services are performed both in and out of Lesotho; or

- Derived from immovable property located in Lesotho, including gains from the disposal of an interest in such immovable property and from the disposal of shares in a company the property of which consists directly or indirectly principally of interests in immovable property located in Lesotho; or
- Derived by a resident of Lesotho from the disposal of movable property, other than business income derived from a business conducted outside of Lesotho; or
- Derived from the disposal of a membership interest in a resident company; or
- Derived from the rental of movable property used in Lesotho; or
- Derived from the sale or license of industrial or intellectual property used in Lesotho; or
- Interest where the debt is secured by immovable property located in Lesotho, where the borrower is a resident of Lesotho, or where the borrowing relates to a business carried on in Lesotho; or
- A dividend, management fee, or director's fee paid by a resident company; or
- A pension or annuity where the pension or annuity is paid by the Lesotho Government or a resident of Lesotho; or the services or employment in respect of which the pension or annuity was granted were rendered or exercised in Lesotho; or
- A natural resource payment for a natural resource taken from Lesotho; or
- Derived by a resident of Lesotho in carrying on a business as owner or charterer of a vehicle, vessel, or aircraft.

This definition applies to all sources of income, including income that is not business income. Any income that is not Lesotho-source income is foreign-source income.

Part C, Line 1

Business income. Business income means the profits or gains arising from a business. Such income includes:

- Gains on the disposal of business assets or on the satisfaction of business debts, whether or not the asset or debt was on capital or revenue account; and
- A payment received as consideration for accepting a restriction on the capacity to carry on business.
- Income from cancellation of business debts the trust or estate incurred.

Attach a schedule detailing each type of income and gain included on this line.

The gain on the disposal of an asset is the excess of the consideration received over the adjusted cost base of the asset.

Cost base. The cost base of an asset is the asset's tax cost, which is determined as follows:

- The tax cost of an asset purchased, produced, or constructed by the Taxpayer is the amount paid or incurred by the Taxpayer and the market value of any consideration in kind given for the asset.
- The tax cost of an asset acquired in a non-arm's length transaction (other than by gift) is the fair market value of the asset at the date of acquisition.
- The tax cost of an asset acquired by gift is the greater of the adjusted cost base of the transferor or the fair market value of the asset at the date of acquisition.
- The tax cost of an asset acquired in a transaction in which a gain is not taken into account is the adjusted cost base of the asset given in exchange, or the adjusted cost base of the transferor, as the case may be.
- Where a part of an asset is disposed of, the adjusted cost base of the asset is apportioned between the part of the asset retained and the part disposed of in accordance with their market values at the time of acquisition.

Consideration. Consideration is the cash plus the market value of any property received on the disposal. If the asset was disposed of in a non-arm's length transaction (other than by gift), the disposer is treated as having received consideration equal to the fair market value of the asset at the date of disposal. If the asset was disposed of by gift, the disposer is treated as having received consideration equal to the greater of the adjusted cost base of the disposer or the fair market value of the asset at the date of disposal.

Part C, Lines 2a through 2g

Expenses. Generally, a deduction is allowed for any business expense or loss (including a depreciation or amortisation expense), but only to the extent paid or incurred by during the year of assessment in the production of income subject to tax.

However, no deduction is allowed for:

- Any expense or loss to the extent it is of a personal nature; or
- Income tax; or
- Expenses of acquiring, producing, or improving property or for other expenses chargeable to capital account, including indirect expenses such as depreciation, interest, or taxes incurred during the construction period; or
- The cost of a gift made directly or indirectly to an individual if the gift is excludable from the individual's gross income; or
- A fine or similar penalty paid to a government for breach of any law; or
- An insurance premium paid to a non-resident insurer for an asset or risk located in Lesotho.

Special rules apply to:

- Depreciable assets that cost less than M 50 each. The trust or estate is allowed to deduct the full cost of these assets instead of depreciating them.
- Compensation. Compensation is not deductible to the extent it exceeds a reasonable amount.
- Contributions to a complying employer superannuation fund made on behalf of an employee. The total amount allowed as an annual deduction is limited to the employment income paid to the employee multiplied by 20% minus the employee's own contributions to the same fund.
- Donations paid to the Lesotho Sports and Recreation Commission. See the instructions for Part A, line 2g.
- Meals and entertainment. Only 50% of otherwise allowable deductions for entertainment or meals is allowed (unless the cost of providing the entertainment or meal is subject to the fringe benefits tax or is an exempt fringe benefit).
- Bad debts. A deduction is allowed when the debt is written off in the trust's or estate's accounts.
- Approved training expenses. If the trust or estate was carrying on a business in Lesotho, it is allowed to deduct 125% of the expenses approved by the Commissioner Domestic Taxes and incurred for training or tertiary education of a citizen of Lesotho employed in a business the income from which is subject to tax in Lesotho.
- Prepaid expenses. Expenses not of a capital nature that relate to a service or other benefit extending beyond 3 months after the end of the year of assessment are allowed proportionately over the years of assessment to which the service or other benefit relates.

Part C, Line 2a

Cost of sales or operations. If the trust or estate maintained stocks of goods in process or of finished goods, it must establish and maintain inventories of such stocks. Enter on this line the trust's or estate's deduction for cost of goods sold.

The deduction for the cost of goods sold is determined by adding to the opening trading stock the cost of goods acquired during the year, and subtracting the closing trading stock.

If the trust or estate was a cash-basis Taxpayer, the trust or estate may calculate the cost base of trading stock on the prime-cost or absorption-cost method. If the trust or estate was an accrual-basis Taxpayer, the trust or estate must

calculate the cost base of trading stock on the absorption-cost method.
The value of trading stock on hand at the end of the year of assessment is the lower of its cost base or market value at that date. Where particular items of trading stock are not readily identifiable, the trust or estate may account for the trading stock on the first-in-first-out method or the average-cost method.

Part C, Line 2e

Depreciation. A deduction is allowed for depreciation of the trust's or estate's depreciable assets, other than an asset with a cost of less than M 50, for which the cost is treated as an expense. The rules for calculating depreciation are as follows:

1. Depreciable assets are classified into five groups with depreciation rates shown below in the **Declining Balance Depreciation Rates Table**.

Declining Balance Depreciation Rates Table		
Group	**Assets Included**	**Depreciation Rate**
1	Automobiles; Taxis; Light General Purpose Trucks; Tractors for Use Over-the-Road; Special Tools and Devices	25%
2	Office Furniture, Fixtures, and Equipment; Computers and Peripheral Equipment and Data Handling Equipment; Buses; Heavy General Purpose Trucks; Trailers and Trailer Mounted Containers; Construction Equipment	20%
3	Any depreciable asset not included in another group	10%
4	Railroad Cars and Locomotives and Railroad Equipment; Vessels, Barges, Tugs, and Similar Water Transportation Equipment; Industrial Buildings; Engines and Turbines; Public Utility Plant	5%
5	Mining	100%

2. Where an election under (4) below is not made, the depreciation allowed for each asset is –
   A x B x C/D where –
   A is the relevant depreciation rate specified above; and
   B is the adjusted cost base of the asset; and
   C is the number of days in the year of assessment during which the asset was used in
   the production of income subject to tax; and
   D is the number of days in the year of assessment.

3. Where a depreciable asset to which (2) above applies is only partly used for the purpose of producing income subject to tax, only so much of the deduction allowed under (2) above as relates to that use is allowed as a deduction.

4. If the Taxpayer so elects, the assets in groups 1, 2, and 3 are placed into separate pools for each group, and the depreciation deduction for each pool is determined under (5) through (10) below.

5. An election under (4) above -
   a. Applies only to assets wholly used in the production of income subject to tax; and
      applies to all such assets acquired during the year of assessment for which the election is made and subsequently; and
   b. Must be made by the due date for the return of income for such year; and
   c. Is irrevocable.

6. The depreciation deduction for each pool is calculated by applying the rate of depreciation specified above against the balance of the pool at the end of the year of assessment.

7. The balance of the pool at the end of the year of assessment is the total of -
   a. The balance of the pool at the end of the preceding year of

assessment after allowing for the deduction under (6) above for the preceding year of assessment; and

b. Half the cost of assets added to the pool in the preceding year of assessment; and
c. Half the cost of assets added to the pool in the current year of assessment,

Reduced, but not below zero, by the consideration received from the disposal of assets in the pool during the year of assessment.

8. Where the consideration received from the disposal during a year of assessment of assets in a pool exceeds the balance of the pool at the end of the year of assessment (disregarding those amounts), the excess is included in gross income.

9. If the balance of the pool at the end of the year of assessment, after allowing for the deduction under (6) above, is less than M 500; and no assets have been added to the pool in the current year of assessment, a deduction is allowed for the amount of the balance.

10. Where all the assets in a pool are disposed of, a deduction is allowed for the balance of the pool at the end of the year of assessment.

11. Where a Taxpayer has incurred costs in more than one year of assessment for a depreciable asset, depreciation is calculated as if the costs incurred in different years of assessment were for different assets.

12. Where an industrial building is bought or sold together with land, you must apportion the total consideration reasonably to arrive at a separate value of the building.

Amortisation. Intangible assets, other than business start-up costs, having an ascertainable useful life and used for the production of income subject to tax, are amortised on a straight-line basis over the life of the asset. Costs to start up a business to produce income subject to tax are amortised as if the costs were incurred for a depreciable asset subject to a 20% declining balance depreciation rate.

Mineral extraction expenditures. Such expenditures incurred in the production of income subject to tax, in the nature of exploration, drilling, development, or the acquisition of rights, are recovered as if the costs were incurred for a depreciable asset subject to a 10% declining balance depreciation rate.

Part C, Line 2f

Foreign exchange losses. Losses of an accrual-basis Taxpayer must be taken into account on the last day of each year of assessment.

Part C, Line 2g

Other expenses and losses from business assets. Attach a schedule detailing each expense or loss included on this line.

Business losses. Except as otherwise stated below, the loss on the disposal of a business asset is allowed in determining chargeable income and is the excess of the adjusted cost base over the consideration received. See the instructions for Part C, line 1, for the definitions of cost base and consideration.

No loss is allowed on the:

- Disposal of an asset directly or indirectly to an associate of the Taxpayer, or
- Disposal of a depreciable asset for which an election under rule (4) in the instructions for Part C, line 2e, has been made (other than as provided in the election rules), or
- Transfer of assets between spouses, or
- Transfer of assets between former spouses as part of a divorce settlement, or
- Involuntary conversion of an asset, where the proceeds are reinvested in an asset of like kind.

Include on this line the business portion of:

- Contributions to a complying self-provided superannuation fund (see the instructions for Part A, line 2f), and
- Donations paid to the Lesotho Sports and Recreation Commission (see the instructions for Part A, line 2g).

Part C, Line 4

Business income or loss from partnerships. A partnership is required to make a separate return of partnership income. Enter on this line the trust's or estate's share of partnership business income or loss. Attach a schedule detailing the name, address, TIN, and amounts allocated to the trust or estate for each partnership. If the trust or estate is claiming a loss, you must also calculate the trust's or estate's adjusted cost base in the partnership and show the amount of any loss carried forward from a prior year.

The trust's or estate's distributive share of partnership loss is allowed only to the extent of the adjusted cost base of the trust's or estate's partnership interest at the end of the assessment year in which the loss occurred, and any excess of such loss over such base may be carried forward. At the end of each assessment year, the trust's or estate's adjusted cost base is increased by the sum of the trust's or estate's distributive share of both taxable and tax-exempt income and decreased (but not below zero) by the trust's or estate's distributive share of distributions, losses, and non-deductible expenses.

Part C, Line 5

Business income from other trusts and estates. Each trust or estate is required to make a separate income tax return. Enter on this line the trust's or estate's share of business income from other trusts and estates. No beneficiary is allowed a deduction for a loss from a trust or estate. Attach a schedule detailing the name, address, TIN, and amounts allocated to the trust or estate from other trusts and estates.

Part C, Line 9

Losses brought forward from prior years. A net business loss is allowed only against business income and any amount not allowed in the current assessment year is carried forward to the next assessment year. If the trust or estate had a net business loss carried forward from the previous assessment year, enter that amount on line 9.

Part D – Commercial Farming Income & Expenses

Commercial farming does not include subsistence farming carried on in Lesotho by a resident individual. "Subsistence farming" means primary farming operations, whether pastoral or agricultural, where the output of the operations is principally used for the Taxpayer's own consumption.

See the instructions for Part C for additional instructions that also apply to Part D. The instructions that apply to business income and expenses also apply to commercial farming income and expenses.

Part E – Property Income & Expenses

Accounting method. The trust or estate may use either the cash or accrual method of accounting. Under the cash method, income is taken into account when received or made available to the trust or estate and expenses are taken into account when paid. Under the accrual method, income is taken into account when earned and expenses are taken into account when incurred.

Lesotho-source income and foreign-source income. See the instructions for Part C.

Part E, Lines 3a through 3h

Expenses. See the instructions for Part C, lines 2a through 2g, for additional instructions that also apply to Part E. The instructions that apply to business income and expenses also apply to rental income and expenses. Do not include

losses on investment assets on line 3h; instead, include such losses on line 6.

Part E, Line 5a

Interest, dividends, and royalties. Include taxable interest income, dividends, and royalties on this line, but only if it is from a non-business investment. If the income was earned in the course of the trust's or estate's business or commercial farming activity, include it in Part C or D, whichever applies. **Do not** include on this line dividends paid by a Lesotho resident company if the trust or estate is a Lesotho resident.

If the trust or estate is a non-resident, tax is withheld at 25% on the gross amount of a Lesotho-source dividend, interest, or royalty, and the tax is considered a final tax not reportable on this return. But the trust or estate must report this income if it files an income tax return and elects to be taxed at 40% on such income (less any deductible expenses that constitute Lesotho-source income to the person you paid).

Part E, Line 5b

Gains on the disposal of investment assets. Attach a schedule detailing each gain included on this line.

The gain on the disposal of an asset is the excess of the consideration received over the adjusted cost base of the asset. See the instructions for Part C, line 1, for the definitions of consideration and adjusted cost base.

However, if an investment asset is an interest in immovable property held for more than 12 months, the adjusted cost base is indexed for inflation using the following formula:

$$CB \times \frac{CPI\text{-}D}{CPI\text{-}A}$$

Where:

CB = *Cost or expense of each item included in the cost base of the asset;
CPI-D = Consumer price index number (CPI) published for the quarter that ended immediately prior to the asset's disposal date;
CPI-A = CPI published for the quarter that ended immediately prior to the date the cost or expense of the item was incurred.
*Note: If the trust or estate owned the item on 1 April 1993, substitute the market value of the asset on that date.

The CPI is published by the Bureau of Statistics (BOS). You can contact BOS at:

Bureau of Statistics
PO Box 455, Maseru 100, Lesotho
Tel: +266 22 323 852 Fax: +266 310177
E-mail: itpd@bos.gov.ls

Indexing for inflation does not apply if the asset was disposed of at a loss.

Part E, Line 5c

Other property income (except from partnerships, trusts, or estates). Include taxable natural resource payments and any other taxable investment income not reportable on another line. If the income was earned in the course of the trust's or estate's business or commercial farming activity, include it in Part C or D, whichever applies.

Part E, Line 6

Expenses and losses from investment assets and donations paid to the Lesotho Sports and Recreation Commission. Attach a schedule detailing each expense or loss included on this line.

Investment losses. Except as otherwise stated below, the loss on the disposal of an investment asset is allowed in determining chargeable income and is the excess of the adjusted cost base over the consideration received. An investment asset is an asset that is neither a business asset nor an asset held primarily for personal use. See the instructions for Part C, line 1, for the definitions of cost base and consideration.

The losses you include on this line cannot be more than the gains you enter on Part E, line 5b. If the losses exceed the gains, the excess is treated as incurred in the following year.

No loss is allowed on the:

- Disposal of an asset directly or indirectly to an associate of the Taxpayer, or

- Transfer of assets between spouses, or
- Transfer of assets between former spouses as part of a divorce settlement, or
- Involuntary conversion of an asset, where the proceeds are reinvested in an asset of like kind.

Include on this line the investment portion of:

- Contributions to a complying self-provided superannuation fund (see the instructions for Part A, line 2f), and
- Donations paid to the Lesotho Sports and Recreation Commission (see the instructions for Part A, line 2g).

Part E, Line 8

Property income or loss from partnerships. A partnership is required to make a separate return of partnership income. Enter on this line the trust's or estate's share of partnership property income or loss. Attach a schedule detailing the name, address, TIN, and amounts allocated to the trust or estate for each partnership. If the trust or estate is claiming a loss, you must also calculate the estate's or trusts' adjusted cost base in the partnership and show the amount of any loss carried forward from a prior year.

The trust's or estate's distributive share of partnership loss is allowed only to the extent of the adjusted cost base of the trust's or estate's partnership interest at the end of the assessment year in which the loss occurred, and any excess of such loss over such base may be carried forward. At the end of each assessment year, the trust's or estate's adjusted cost base is increased by the sum of the trust's or estate's distributive share of both taxable and tax-exempt income and decreased (but not below zero) by the trust's or estate's distributive share of distributions, losses, and non-deductible expenses.

Part E, Line 9

Property income from other trusts and estates. Each trust or estate is required to make a separate income tax return. Enter on this line the estate's or trust's share of the property income from other trusts and estates. No beneficiary is allowed a deduction for a loss from a trust or estate. Attach a schedule detailing the name, address, TIN, and amounts allocated to the trust or estate from the other trusts and estates.

Part E, Line 13

Losses brought forward from prior years. A net property loss is allowed only against property income and any amount not allowed in the current assessment year is carried forward to the next assessment year. If the trust or estate had a net property loss carried forward from the previous assessment year, enter that amount on line 13.

Part F – Other Income & Expenses

Accounting method. The trust or estate may use either the cash or accrual method of accounting. Under the cash method, income is taken into account when received or made available to the trust or estate and expenses are taken into account when paid. Under the accrual method, income is taken into account when earned and expenses are taken into account when incurred.

Lesotho-source income and foreign-source income. See the instructions for Part C.

Part F, Line 1

Other income. Attach a schedule listing all income subject to Lesotho income tax that is not reportable in Parts A through D. Other income includes such items as prizes, awards, and gambling winnings. Also include net other income allocated to you from partnerships, trusts, and estates.

Part F, Line 2

Expenses. Attach a schedule listing the expenses the trust or estate paid or incurred to produce the income on line 1. Also include on this line and list on the schedule the portion of the following deductions allocable to other income:

- Contributions to a complying self-provided superannuation fund (see the instructions for Part A, line 2f), and
- Donations paid to the Lesotho Sports and Recreation Commission (see the instructions for Part A, line 2g).

Part G – Credit for Foreign Tax Paid On Income Taxed to the Trust or Estate

A Lesotho resident trust or estate is entitled to a foreign tax credit against Lesotho income tax for any foreign income tax imposed directly or indirectly on that resident trust or estate on foreign-source income taxed in Lesotho.

Part G, Column (b)

Foreign tax paid on the amount in column (a). Enter the amount of foreign tax paid on the income shown in column (a). The trust or estate must keep in its records for 4 years evidence of any foreign tax paid, such as dividend warrant counterfoils, certificate of tax deducted, or statement from the partnership. Do not attach it to the trust's or estate's tax return.

Part G, Column (c)

Lesotho tax on the amount in column (a). To calculate the amount in column (c), you must use the average rate of Lesotho tax imposed on the income shown in column (a). The average rate of tax is the percentage the trust's or estate's Lesotho income tax calculated after allowance of the personal credit (but before the foreign tax credit) is of the trust's or estate's chargeable income. The tax must be calculated separately for business income (including commercial farming income) and for all other income. To make this calculation, first complete Part I, line 1a through 5a. Then complete the **Lesotho Tax Computation Worksheet for Part G, Column (c), Lines 1c and 1f** below.

Lesotho Tax Computation Worksheet for Part G, Column (c), Lines 1c and 1f	
1. Divide Part I, line 1c by Part I, line 2	
2. Add Part I, lines 3b, 3c, and 3d in column (c)	
3. Multiply line 1 above by line 2 above	
4. Add line 3 above and Part I, line 3a in column (c)	
5. Divide line 4 above by Part I, line 4	
6. Multiply line 5 above by Part I, line 5a	
7. Line 4 above minus line 6 above	
8. Add Part I, lines 1c and 1d	
9. Divide line 7 above by line 8 above.	
10. Multiply Part G, line 1c, column (a) by line 9. Enter the result here and on Part G, line 1c, column (c)	
11. Part I, line 4, minus Part I, line 5a	
12. Line 11 above minus line 7 above	
13. Part I, line 2 minus line 8 above	
14. Divide line 12 above by line 13 above	
15. Multiply Part G, line 1f, column (a) by line 14. Enter the result here and on Part G, line 1f, column (c)	

Part I – Tax Computation

Part I, Line 3b

Threshold apportionment

Threshold apportionment

If the deceased Taxpayer was a part-year resident or not engaged in an income-earning activity for the entire year, the chargeable income must be apportioned i.e. spread over a year. For example, if the deceased' only income was M50, 000.00 which he/she earned over five months period, then the apportionment is calculated as follows;

- 50,000 /12 = 10,000.00 income per month. (i.e. income which would be earned per month if the 50,000 was earned over a year)

We know that the first M58 680.00 is taxed at 20% per annum meaning that 58 680.00 /12 =4, 890.00 per month is taxed at 20%. Any amount above this is taxed at 30%.

Thus tax payable per month would be;

- Tax on the first 4, 890.of 10,000= (4,890.*20%)=978.
- Tax on the excess = (10, 000.-4, 890)*30%.=5, 110.*30%=1, 533.
- Total tax=2, 511.
- Less tax credit= (6, 960./12)=580.
- Tax payable=1, 931.

Therefore the tax payable for the 5 months should be 1, 931.*5=9, 655.

Part I, Line 8b

Tax withheld on payments to Lesotho resident contractors. If you were a Lesotho resident in the construction business, Lesotho income tax may have been withheld at a rate of 5% from the payments the trust or estate received. Enter the amount of such tax withheld and attach the tax withholding certificate received from the payer.

Part F, Line 8c

Tax withheld on interest income paid to Lesotho residents. For a Lesotho resident trust or estate, Lesotho income tax may have been withheld at a rate of 10% from the interest income received. Enter the amount of such tax withheld and attach the tax withholding certificate the trust or estate received from the payer.

For a trust or estate that is a partner in a Lesotho resident partnership, Lesotho income tax may have been withheld at a rate of 10% from the interest income received by the partnership. Enter the trust's or estate's distributive share of the amount of such tax withheld. Also attach a statement from the partnership that shows the trust's or estate's distributive share.

Part I, Line 8d

Tax withheld on service income payments to non-residents. If the trust or estate was a non-resident who received payments under a Lesotho-source services contract, Lesotho income tax may have been withheld at a rate of 10% from the payments you received. Enter the amount of such tax withheld and attach the tax withholding certificate if you are filing this return because the trust or estate has elected to be taxed by assessment at a rate of 40% on its net income. If the trust or estate does not elect to be taxed by assessment, the withheld tax is a final tax.

Part I, Line 8e

Tax withheld on dividends, interest, royalties, management charges, and other income paid to non-residents. If the trust or estate was a non-resident who received Lesotho-source dividends, interest, royalties, or natural resource payments, or it received provided management or administrative services used solely in the production of manufacturing income subject to a reduced tax rate, Lesotho income tax may have been withheld at a rate of 15% or 25% from the payments received. Enter the amount of such tax withheld and attach the tax withholding certificate if then trust or estate is filing this return because it has elected to be taxed by assessment at a rate of 40% on its net income. If the trust or estate does not elect to be taxed by assessment, the withheld tax is a final tax.

Part I, Lines 8f through 8h

Income tax paid in advance installments. Enter on the applicable line each installment of Lesotho income tax paid in advance for the assessment year. If the trust or estate was required to pay its tax in installments, the installments should have been paid no later than 30 September 2017, 31 December 2017, and 31 March 2018.

Part I, Line 10

Tax due. The amount on line 10 is the amount the trust or estate must pay when it files its return. You may file the return at any of the following locations:

- First National Bank (FNB), Nedbank, or Standard Lesotho Bank, or
- Tax Advice Centre, Finance House, Maseru, or
- Regional Tax Advice Centre, Leribe, or
- Regional Tax Advice Centre, Mohale's Hoek.

You may also send the return by post to the Commissioner Domestic Taxes, PO Box 1085, Maseru 100.

You may pay by cash, cheque, or banker's draft if you bring the return to a bank or advice centre. If you send the return by post, the trust or estate may pay by cheque or banker's draft made payable to the "Commissioner Domestic Taxes." **Do not send cash.**

Part I, Line 11

Tax overpaid. The amount on line 11 is the amount that will be refunded to the trust or estate if you have ticked the box on line 11, the trust or estate has no outstanding tax liabilities, and you have made no errors in completing the return. See the Part I, line 10 instructions to find out how to file the return.

Normally, the estate's or trust's refund will be sent to the trust or estate within 46 calendar days of filing the return.

Part J – Reconciliation of Book Income (Loss) to Chargeable Income

Complete this part only if **Part C, D, or E** applies to the trust or estate. On line 1, enter the income shown in the estate's or trust's accounting books and records. Do not enter the estate's or trust's chargeable income. Include employment and pension income in addition to business, commercial farming, property income, and other income. Attach a copy of any explanatory notes to the estate's or trust's financial statements, but you do not have to attach a complete copy of the financial statements.

Part L – Allocation to Beneficiaries of Their Shares of Income and Foreign Tax Paid

On lines 1 through 6, enter the share of income in each category to which each beneficiary is entitled. However, for any non-resident beneficiary, enter nil (-0-) on lines 2, 4, and 6. For a company beneficiary, the amount of manufacturing income must be stated on a separate schedule.

On lines 9 through 12, enter the shares of foreign tax paid based on the amount of foreign-source income in each category to which each resident beneficiary is entitled. For a non-resident beneficiary, enter nil (-0-).

Declaration of Paid Preparer

Before you file the return, you must be sure that if a person was paid to prepare the tax return, that person signed the declaration at the top of page 9.

Declaration of Taxpayer or Representative

Before you file the return, you must sign the declaration at the end of page 9. If you give false information or conceal any part of the trust's or estate's income, you can be prosecuted. If the Taxpayer is legally incapacitated, the return must be signed on behalf of the Taxpayer by the Taxpayer's representative.