

Deregistering a Family Trust

Winding up and closing a South African trust:
the steps, the paperwork and the likely cost

A PRACTICAL CLIENT GUIDE • 2026 EDITION

Closing a family trust is not a form-filling exercise. The trust has to be wound up properly – creditors settled, tax dealt with, assets vested in the right beneficiaries – before the Master of the High Court will close the file.

This guide sets out the nine steps, the documents you will need, and what it is likely to cost.

PHASE 1

Preparation

Read the deed, pass the trustees' resolution, audit assets and liabilities.

PHASE 2

Winding up

Pay the creditors, prepare final financials, distribute assets, settle the tax.

PHASE 3

Closing the file

Lodge the submission with the Master and surrender the Letters of Authority.

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About this guide

Bregman Moodley Attorneys Inc., Johannesburg – established 1974

Many families set up a trust years ago for reasons that no longer apply. The children have grown up, the asset has been sold, the tax advantage has fallen away – and what is left is an empty structure that still costs money to run and still has to file returns.

Closing a trust is not a simple administrative cancellation. In South African law a trust is terminated by properly winding it up: settling every liability, dealing with the tax, distributing what remains to the beneficiaries who are entitled to it, and only then asking the Master of the High Court to close the file. Done in the wrong order, it can expose the trustees personally and leave a tax problem behind.

This guide walks through the three phases of that process, lists the documents you will need, and gives realistic 2026 cost ranges so that you can budget properly before you start.

Who this guide is for

It assumes a standard **discretionary inter vivos family trust** that is **solvent** – in other words, a trust set up during the founder's lifetime whose assets comfortably exceed its debts.

Testamentary trusts, insolvent trusts, trusts in dispute between trustees or beneficiaries, and trusts holding business or offshore assets follow a different and more demanding route. If yours falls into one of those categories, please speak to us before taking any step.

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Important: this guide is general information about South African law as at 2026. It is not legal or tax advice and no attorney–client relationship arises from reading it. Every trust deed is different and the tax consequences turn on your own numbers. Please take advice on your specific trust before acting.



Before you start

Four questions to answer honestly at the outset

A trust does not belong to the trustees, and it does not belong to the founder. It is a separate arrangement held for the benefit of the beneficiaries. That single point explains most of what follows.

Can this trust actually be terminated?

- 1. Does the deed allow it?** Some deeds give the trustees an express power to terminate early; others fix a vesting date and say nothing about ending sooner. If the deed is silent or restrictive, an application to court under section 13 of the Trust Property Control Act, or the consent of all beneficiaries, may be required.
- 2. Have any beneficiaries accepted benefits?** Once a beneficiary has accepted a benefit under the trust, their rights vest and the trustees and founder can no longer simply undo the arrangement between themselves.
- 3. Are there minor, unborn or unascertained beneficiaries?** Their interests cannot be signed away by the adults in the room. The Master – or a court – may need to be involved.
- 4. Is the trust solvent?** A trust may not be wound up in order to defeat creditors. If liabilities exceed assets, stop and take advice immediately.

PHASE 1 Preparation Decide, document, and take stock

1

Review the trust deed

The deed is the founding document and governs everything that follows. Read it specifically for:

- **The termination clause** – who may resolve to terminate, and on what conditions.
- **The vesting date** – the date the trust was to end naturally. If you are ending it earlier, confirm the deed permits that.
- **The capital beneficiaries** – who takes the assets on termination, in what shares, and whether the trustees have a discretion or a fixed formula to apply.
- **Amendments** – check for any signed addenda or amending deeds lodged with the Master; the version in the file may not be the current one.

2

Convene a trustees' meeting and pass a resolution

All trustees must meet and resolve on termination. Unless the deed provides otherwise, trustees must act jointly – a resolution signed by some of them is open to challenge.

The written resolution should record, at minimum:

- the decision to terminate the trust and the legal basis for it (the clause relied on);
- the effective date of termination;
- the basis on which the capital is to be distributed to the beneficiaries; and
- who is appointed to attend to the winding-up – typically one trustee, assisted by the trust's accountant and attorney.

This resolution is the instrument that authorises everything that follows. Keep the signed original: the Master will want to see it.



3

Conduct a full asset and liability audit

Before distributing anything, compile a complete inventory:

- **Assets** – immovable property, listed and unlisted investments, loan accounts owed to the trust, vehicles, policies, cash on hand.
- **Liabilities** – bonds, loan accounts owed by the trust (often to the founder or a family member), municipal accounts, outstanding taxes, and any contingent liabilities such as suretyships.

The purpose is twofold: to confirm solvency, and to produce a distribution plan that the trustees can defend later if a beneficiary questions it.

Watch the loan account

In many family trusts the founder lent the trust money to buy the asset and the loan was never repaid. That loan is a debt of the trust and must be dealt with before any distribution to beneficiaries. Waiving it has donations tax and estate duty consequences – do not simply write it off without advice.

PHASE 2

Winding up The practical work – and the expensive part

This phase does the real work and usually needs both an accountant and an attorney. The order matters: creditors first, beneficiaries last.

4

Settle all trust liabilities

Every creditor must be paid in full – bonds, loan accounts, municipal accounts, service providers and professional fees. Beneficiaries are paid out of what is left over, not before. Trustees who distribute assets ahead of creditors risk personal liability.

5

Prepare final financial statements

The trust's accountant prepares a final set of annual financial statements up to the date of termination, reflecting the settlement of liabilities and the net value available for distribution. These statements form the basis of the final tax return and of the submission to the Master.

6

Distribute the remaining assets to the beneficiaries

Once liabilities are settled, the balance is distributed to the capital beneficiaries in accordance with the deed and the trustees' resolution. Keep clear proof of every transfer – bank statements for cash, share transfer forms for investments, and a registered deed of transfer where immovable property passes to a beneficiary.

Tax: this is where the money goes

Capital gains tax. Distributing an asset out of a trust is a disposal for CGT purposes. Tax is calculated on the growth between the base cost and the market value at the date of distribution. Whether the trust pays that tax, or the beneficiary does, depends on whether the gain is vested in a South African resident beneficiary in the same tax year – and the difference is substantial, because trusts are taxed at a far higher effective CGT rate than individuals. This needs to be modelled *before* you distribute, not after.

Attribution rules. Where the founder funded the trust by loan or donation, income and gains may be attributed back to the founder rather than taxed in the trust.

Immovable property. Transferring property to a beneficiary requires conveyancing, and transfer duty must be considered – an exemption may apply where the beneficiary takes under the trust deed, but this should be confirmed with SARS in each case.

Timing. Distributing in one tax year rather than spreading over two can change the tax bill materially. Speak to your accountant before the transfers happen.



7

Deal with SARS and obtain tax compliance

Submit the final trust income tax return declaring all income and capital gains up to termination, and settle whatever is owing. Once SARS is satisfied, the trust's tax compliance status can be confirmed – in practice through SARS eFiling rather than the old paper tax clearance certificate. The trust's tax number is then deregistered.

Clean tax compliance is a practical prerequisite for closing the file. Do not underestimate how long SARS can take at this stage.

8

Close the trust bank account

Only once every liability is paid, every asset distributed and the tax settled should the trust bank account be closed. Ask the bank for a final statement showing a nil balance and a closure confirmation – both go into the submission to the Master.

PHASE 3

Closing the file The Master of the High Court

9

Ask the Master to close the trust file

The appointed representative writes to the Master's office where the trust is registered – quoting the trust's IT reference number – requesting that the trust be recorded as terminated and the file closed, and lodging the supporting documents set out in the checklist that follows.

The **original Letters of Authority** must be surrendered. Where an original has been lost, an affidavit explaining the loss will be required.

The Master will then record the trust as terminated and close the file. There is no separate certificate of deregistration in the way there is for a company – what you receive is written confirmation from the Master that the file is closed. Keep it permanently with the trust records.

After closure: keep the records

Under section 17 of the Trust Property Control Act, trustees may not destroy trust documents within five years of termination without the Master's written consent. Store the deed, the resolutions, the financial statements and the distribution records safely – SARS or a beneficiary may still ask questions.

How long does it take?

Clients are often surprised by the timeline. The legal steps are quick; the waiting is not. As a rough guide, for a straightforward solvent trust:

Stage	Realistic timeframe
Deed review, trustees' resolution and asset audit	2 – 4 weeks
Settling liabilities and distributing assets (cash and investments)	1 – 3 months
Transfer of immovable property to a beneficiary, if applicable	3 – 4 months
Final tax return and confirmation of tax compliance from SARS	1 – 3 months
Master's office: processing the submission and closing the file	1 – 3 months
Total, start to finish	Commonly 6 – 12 months

Stages overlap, but the SARS and Master's stages cannot be rushed. Start well before any deadline that matters to you.



Documents checklist

What the Master and SARS will expect to see

Category	Document	Purpose
Constitutional	Trust deed and any amendments	Establishes the power to terminate and who takes the capital
	Trustees' resolution to terminate	Authorises the winding-up
	Original Letters of Authority	Surrendered to the Master on closure
Financial	Final annual financial statements	Shows liabilities settled and net value distributed
	Proof of settlement of liabilities	Confirms creditors paid before beneficiaries
	Proof of distribution to beneficiaries	Bank statements, transfer documents, title deeds
	Final bank statement and closure letter	Confirms a nil balance
Tax	Final trust income tax return	Declares income and capital gains to termination
	Confirmation of tax compliance from SARS	Confirms nothing further is owing
Submission	Covering letter to the Master	Requests that the file be closed, quoting the IT number
	Affidavit re lost Letters of Authority	Only if the original cannot be produced

What it costs

Indicative professional fees, 2026 – all figures exclude VAT

Cost depends almost entirely on what the trust owns. A trust holding a single bank account is a straightforward exercise; one holding a property, a share portfolio and a loan account is not.

Simple trust – cash or a small investment portfolio only

Item	What it covers	Estimated fee
Accounting	Final financial statements, final tax calculation and return, SARS deregistration	R10 000 – R25 000
Legal / administrative	Advice on the deed, drafting the resolution, compiling and lodging the submission to the Master	R8 000 – R20 000
Total professional fees		R18 000 – R45 000

Complex trust – immovable property, business interests or a large portfolio

Item	What it covers	Estimated fee
Accounting	Asset valuations, CGT modelling, more involved final statements and returns	R25 000 – R70 000+
Legal	Advice on termination and beneficiary rights, distribution planning, Master's submission	R20 000 – R60 000+



Item	What it covers	Estimated fee
Conveyancing	Transfer of immovable property from the trust into a beneficiary's name; scales with property value	R30 000 – R100 000+
Total professional fees		From R45 000; can exceed R150 000

The biggest number is usually not a fee

The figures above are professional fees only. In most trust wind-ups the largest single cost is the **capital gains tax** triggered when assets are distributed – and unlike fees, it is not negotiable. It depends entirely on how much the trust's assets have grown since they were acquired. Have the CGT calculated at the outset, so that the decision to terminate is taken with the full number in front of you.

Court applications, valuations, Master's queries and disputes between beneficiaries are all additional and are impossible to price in advance.

Five mistakes we see most often

Each one is avoidable, and each one is expensive

- 1. Distributing before calculating the tax.** The trustees agree to hand the property to the children, the transfer goes through, and the CGT assessment arrives afterwards – with no cash left in the trust to pay it. Model the tax first and hold back enough to settle it.
- 2. Ignoring the loan account.** The founder's loan to the trust is a real debt. It has to be repaid, ceded or waived, and each of those routes has different donations tax and estate duty consequences.
- 3. Acting on a resolution that not every trustee signed.** Trustees must act jointly unless the deed says otherwise. A resolution short of the required signatures can be set aside years later, along with everything done under it.
- 4. Overlooking a beneficiary.** Minor, unborn or contingent beneficiaries cannot simply be left out of the distribution because the adults agree. Check the class of beneficiaries in the deed carefully, not the family's assumption about who is entitled.
- 5. Closing the bank account too early.** Once the account is closed there is no practical way to pay a late creditor, a SARS assessment or the Master's queries without reopening the whole exercise. It is the last step, not a tidying-up step.

If in doubt, ask before you act

Almost every trust wind-up problem we are asked to fix arrives after the distribution has already happened. Before that point the options are wide open; afterwards they are usually expensive and sometimes gone. One conversation at the start is the cheapest part of the whole process.



How we can help

Trusts, wills and estates – our core work since 1974

We have been advising Johannesburg families on trusts and deceased estates for over fifty years. We handle trust wind-ups from the first reading of the deed through to the Master's confirmation that the file is closed – working alongside your accountant, or introducing one if you do not have a trust accountant already.

A typical instruction covers

- **A deed review and feasibility opinion** – can this trust be terminated, by whom, and what does the deed require? Delivered before you commit to the full exercise.
- **Drafting the trustees' resolution** and any beneficiary consents or acknowledgements.
- **Distribution planning** – agreeing the sequence and timing with your accountant so that the tax outcome is the best available one.
- **Conveyancing** where immovable property must pass to a beneficiary.
- **The submission to the Master** and management of any queries until the file is closed.
- **Court applications** under the Trust Property Control Act where the deed does not permit what the family wants to do.

Start with the feasibility step

Most families come to us asking how to close a trust. The useful first question is whether they should. Sometimes the CGT bill on winding up is larger than several more years of administration costs, and the better answer is to keep the trust and simplify it instead.

Send us the trust deed and the latest financial statements and we will tell you which of those two you are looking at, and what it will cost.

"Taking the Sting Out of Legal Problems Since 1974."

Speak to us

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Send an email and we will follow it up with a phone call – that is how we work.

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