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INVESTMENT, TAX AND LIFESTYLE PERSPECTIVES FROM RBC FAMILY OFFICE SERVICES

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Trust reporting requirements

Understanding the recent changes to the trust reporting rules

Are you an executor (liquidator in Quebec) or a trustee? If so, you should be aware of recent changes to the reporting requirements for certain trusts. The government first introduced changes to reporting requirements for trusts in the 2018 federal budget. These expanded trust reporting rules were subsequently enacted and applied to trusts with a taxation year ending after December 30, 2023. Since most trusts have a December 31 taxation-year-end, many trusts have had to comply with these new requirements since 2023. Further amendments to the enhanced reporting rules were introduced by the government in August 2024, and subsequently confirmed and re-released with certain modifications and clarifications in August 2025. The updated rules will generally apply to trusts that have a taxation year ending after December 30, 2025. The beneficial ownership reporting requirements for certain bare trusts (discussed later) do not apply for the 2025 tax year. These rules are applicable for taxation years ending on or after December 31, 2026.

In accordance with these recent measures, certain trusts that were not required to do so in the past may need to now file annual tax returns and provide additional beneficial ownership information for 2023 and subsequent tax years.

Filing a trust tax return

A trust needs to file a tax return (T3 Trust Income Tax and Information Return, also known as a T3 return) in certain circumstances. For example, a trust will be required to file a tax return if income from the trust property is subject to tax and, in a tax year, the trust has tax payable,

is requested to file, has disposed of (or is deemed to have disposed of) a capital property or has a taxable capital gain, or holds property that's subject to subsection 75(2) of the Income Tax Act (ITA) (the "super attribution" rules). A trust will also be required to file a tax return in a year if it receives income or capital gains



from the trust property that's allocated to one or more beneficiaries, and the trust has:

- Total income from all sources of more than \$500
- Income of more than \$100 allocated to any single beneficiary
- Made a distribution of capital to one or more beneficiaries, or
- Allocated any portion of the income to a non-resident beneficiary

Note that this is not an exhaustive list.

A T3 return is viewed by the CRA as both an income tax return (which calculates tax liability) and an information return (which reports amounts allocated and designated to trust beneficiaries).

Under the enhanced trust reporting rules, an “express trust” (or for civil law purposes, a trust other than a trust that's established by law or by judgment) resident in Canada or deemed to be resident in Canada is now required to file a tax return, unless it meets certain exceptions, discussed later.

While the phrase “express trust” isn't defined in the legislation or anywhere else in the ITA, it's generally understood to be a trust that's deliberately created by a settlor or Will maker. A non-express trust is a trust that's imposed or created by courts, such as a resulting trust or a constructive trust.

As a result of these expanded reporting requirements, certain trusts that didn't have to file in the past are now required to do so. An example of a trust that may not have needed to file a trust return under the old rules, but may need to file under the new measures, is a properly structured trust in which the only asset is a cottage used by the beneficiaries of the trust where no income is earned on the cottage. Another example is a properly structured trust that holds a deferred growth investment portfolio with a market value of more than \$50,000 and where no income or capital gains have been realized in the year. This assumes none of the exceptions discussed later apply to these trusts.

Deemed trust (bare trust)

When the enhanced trust reporting rules were first introduced, they provided that a trust which can reasonably be considered to act as agent for all the beneficiaries under the trust with respect to all dealings with all of the trust property, commonly known as a “bare trust” would be subject to the new reporting requirements. Historically, these arrangements were disregarded for income tax purposes and were not

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required to file a T3 return. In recognition of concerns regarding the administrative and compliance burden posed by these rules, the CRA provided administrative relief for bare trusts from filing a T3 return and the additional disclosure on Schedule 15 (discussed later) for the 2023 and 2024 tax year, unless the CRA made a direct request for these filings.

In August 2025, the government introduced legislation that repealed the existing reporting requirements for bare trusts with a taxation year ending after December 30, 2024, and introduced new rules that would apply to certain bare trust arrangements for taxation years ending after December 30, 2026. As a result of these changes, bare trusts are exempt from the reporting requirements for the 2024 and 2025 taxation years.

Under the new rules, only bare trusts that are express trusts and do not meet certain exceptions will be subject to the enhanced trust reporting. The new rules deem a trust that would otherwise not be considered a trust under the ITA to be a trust for purposes of the enhanced trust reporting. A deemed trust (bare trust) is an express trust where one or more persons (a legal owner/trustee) have legal ownership of property that is held for the use of, or benefit of one or more persons or partnerships (beneficiaries), and the legal owner can reasonably be considered to act as an agent for the persons or partnership who have the use or benefit of the property.

For greater certainty, the new rules exempt certain trusts from the enhanced reporting that may otherwise apply. Some of these include:

- A trust where all legal owners are also beneficiaries of the trust. For example, a joint bank account between spouses;
- A trust where the legal owners are individuals that are related persons, and the property is real property or immovable property that would be the principal residence of one or more of the legal owners for the year. A related person for the purposes of these rules includes yourself, a spouse or common-law partner, children, grandchildren, parents, siblings, nieces,

nephews, aunts, and uncles. This would exclude circumstances such as where a parent and child are on title to allow a child to obtain a mortgage;

- A trust where the legal owner is an individual and the property is real or immovable property that is held for the use of, or benefit of, the legal owner's spouse or common law partner during the year and would be the legal owner's principal residence for the year. This would exclude circumstances where spouses jointly occupy a family home but only one spouse is on title; or
- A trust where the legal owner holds the property as required by an order of a court.

A bare trust that doesn't meet the exceptions noted in the previous paragraph may still be excluded from the enhanced reporting if it meets one of the "listed trust" exceptions discussed in the following section.

What are the exceptions?

Certain trusts, known as "listed trusts" are excluded from the expanded reporting requirements. The expanded reporting requirements include reporting beneficial ownership information on Schedule 15 of the T3 return. Some of these listed trusts include the following:

- A trust that has been in existence for less than three months during the year;
- A trust that holds assets with a total fair market value (FMV) that doesn't exceed \$50,000 throughout the year;
- A trust where all trustees and beneficiaries are individuals (a beneficiary of the trust may not themselves be a trust, with the exception that a graduated rate estate (GRE) of an individual may be a beneficiary of the trust provided the deceased individual was a beneficiary of the trust in the year of their death); the beneficiaries are related to each trustee (the definition of "related" is expanded to include aunts, uncles, nieces and nephews and clarifies that a person may be related to themselves); the total FMV of the trust property doesn't exceed \$250,000 throughout the year; and, the trust's assets are limited to certain prescribed types, including cash; guaranteed investment certificates (GICs) issued by a bank, trust company or credit union incorporated under the laws of Canada or of a province; certain government debt obligations; debt obligations issued by a corporation, mutual fund trust, or limited partnership that is listed on a designated stock exchange in Canada; debt obligation issued by a corporation that is listed on a designated stock exchange outside of Canada; a debt obligation issued by an authorized foreign bank that are payable at a branch in Canada; a share, debt obligation or right listed on a designated stock exchange; mutual fund corporation shares or trust units; an interest

A bare trust that doesn't meet the exceptions noted in the previous paragraph may still be excluded from the enhanced reporting if it meets one of the "listed trust" exceptions discussed in the following section.

in a related segregated fund; a life insurance policy issued by a Canadian life insurer, the FMV of which is to be determined by its cash-surrender value and personal-use property of a trust. Note that this list doesn't include private company shares or real estate that is not personal use.

- A trust required under relevant rules of professional conduct or the laws of Canada or a province to hold funds for the purposes of an activity that is regulated under those rules or laws, provided the trust isn't maintained as a separate trust for a particular client or clients (this provides an exception for a professional's general trust account); or the only assets held by the trust throughout the year are money, deposits in a Canadian bank or credit union, or a GIC issued by a Canadian bank, trust company or credit union incorporated under the laws of Canada or a province with a value that doesn't exceed \$250,000;
- A trust that qualifies as a registered charity or non-profit organization;
- A mutual fund or segregated fund trust;
- A trust, all of the units of which are listed on a designated stock exchange (i.e. an ETF structured as a trust);
- A GRE or what would be a GRE in the year if the estate had properly designated itself as a GRE;
- A qualified disability trust;
- An employee life and health trust;
- Registered plans (e.g. RRSP, RRIF, RDSP, RESP, RPP, PRPP, DPSP, TFSA, FHSA or RCA);
- Employee ownership trust

The new rules also exempt the disclosure of information that's subject to solicitor-client privilege.

It's important to note that even if a trust is exempt from the information reporting obligations under these new rules and the requirement to file Schedule 15, a T3 return will still need to be filed if it's required under any other rules as discussed previously.

Additional disclosure on trust tax return

In the past, only a limited amount of information with respect to the parties to the trust had to be disclosed on the trust tax return. The enhanced trust reporting

rules increase the amount of information that needs to be included and reported on Schedule 15 when a trust tax return is filed, if the trust does not fall into one of the exceptions. When a trustee files a trust tax return, that includes Schedule 15, they'll need to include the name, address, date of birth (in the case of an individual other than a trust), jurisdiction of residence and taxpayer identification number for each person who, in the year:

- Is a trustee, beneficiary or settlor of the trust; or
- Has the ability through the terms of the trust or a related agreement to exert influence over trustee decisions regarding the appointment of income or capital of the trust (i.e. a protector of a trust).

For the purpose of these rules, the definition of a settlor is expanded to include any person or partnership who has loaned or transferred property to the trust, unless the transfer of property was made for FMV consideration or pursuant to a legal obligation.

Information requirements

A trustee will be considered to have fulfilled the requirement of providing information about the trust beneficiaries if they've made reasonable effort to obtain information about each beneficiary whose identity is known or ascertainable. For those trust beneficiaries whose identity is not known or ascertainable, a trustee will be considered to have met this requirement if they provide sufficiently detailed information so it can be determined whether any particular person is a beneficiary of a trust.

An example of where a beneficiary of a trust may not be known or ascertainable is where the trust instrument provides for a class of beneficiaries that includes the settlor's children or grandchildren, or any future born children or grandchildren. In these circumstances, the trust reporting requirement will be met if the relevant information about all of the settlor's current children and grandchildren is included, as well as the details of the trust terms that extend the class of beneficiaries to any of the settlor's future children or grandchildren.

In the case of an alter ego or joint partner trust, the reporting requirement will be met if the required information is provided regarding the beneficiaries of the trust, other than the contingent beneficiaries (those beneficiaries who will receive the income or capital of the trust upon the death of the life interest beneficiary). This exemption is provided in light of the fact that such trusts essentially function as Will substitutes and the contingent beneficiaries of the trust may not be aware that they are beneficiaries.

A trustee will be considered to have fulfilled the requirement of providing information about the trust beneficiaries if they've made reasonable effort to obtain information about each beneficiary whose identity is known or ascertainable.

This requirement to provide information about all beneficiaries, ascertained and unascertained, may make things more difficult for trustees to comply with their obligations.

Additional penalties for failing to file a return with the expanded disclosure information

A trustee who fails to file a trust tax return to comply with the expanded reporting requirements, or who makes a false statement or omission on the trust tax return knowingly or in circumstances that amount to gross negligence, will be subject to a penalty. This penalty will also apply where a trustee fails to comply with a demand by the CRA to file a trust tax return.

The penalty, which is in addition to penalties that already existed, will be equal to the greater of \$2,500 or 5% of the highest total fair market value of all of the property held by the trust for the year. With this in mind, this penalty may be quite substantial if the trust holds assets of significant value.

Québec trust reporting requirements

Revenu Québec has harmonized with the initial federal changes to the trust reporting rules for taxation years ending after December 30, 2023. However, they have not yet commented on whether they will harmonize with the updated changes that apply to trusts with a taxation year ending after December 30, 2025. In addition, the amount of the penalty for failure to comply with the enhanced reporting is different in Quebec. If a trust fails to file a tax return with the additional information requested under the new rules, it is liable to a penalty of \$1,000, and starting on the second day, an additional penalty of \$100 per day until the tax return with the additional information is filed, to a maximum of \$5,000.

Obtaining a CRA trust account number

The enhanced income tax reporting requirements for certain trusts are part of the Canadian government's increased efforts over the last number of years to determine taxpayers' tax liabilities and to effectively counter aggressive tax avoidance. In addition to these measures, the CRA requires financial institutions to

collect additional information for trusts and other entity accounts. This includes trust account numbers for legal trusts. The CRA may apply a penalty to the trustee of \$100 if the trustee fails to provide a valid trust account number to a financial institution and the financial institution issues tax slips to the trust without a trust account number. This penalty may not be imposed in certain circumstances, including where an application for a number is made to the CRA within 15 days after receiving the financial institution's request and the number is provided to the financial institution within 15 days after its receipt by the trustee.

If a trust doesn't already have a trust account number, the CRA will issue one to the trust when the first T3 return for the trust is filed (if paper filing). The CRA will show the trust account number assigned on the T3 Notice of Assessment for the trust. A trustee may also choose to apply for a trust account number before filing its first T3 return.

It's important to note that a trustee will generally need to provide a financial institution with a trust account number when it's requested by them, regardless of whether a T3 return needs to be filed for the trust.

If an existing trust currently doesn't have a trust account number but should have one, it's important that the trustee seek advice from a qualified tax and/or legal advisor before filing a T3 return or applying for a trust account number.

Conclusion

As a result of these recent trust reporting changes, executors (liquidators) and trustees may face more onerous reporting requirements, and the information gathering requirements may also be increased. If you're an executor (liquidator) or trustee, you may want to review these enhanced trust reporting rules with a qualified legal and tax advisor to determine how they might impact the estate or trust under your administration.

This article may contain strategies, not all of which will apply to your particular financial circumstances. The information in this article is not intended to provide legal, tax or insurance advice. To ensure that your own circumstances have been properly considered and that action is taken based on the latest information available, you should obtain professional advice from a qualified tax, legal and/or insurance advisor before acting on any of the information in this article.



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