

## T3 Filing Requirement

The federal government has made some significant changes to the reporting requirements for trusts in Canada that have a taxation year that ends after December 30, 2023 (i.e. December 31, 2023 or later). The main areas of change are as follows:

- All trusts, unless certain conditions are met, will be required to file an annual T3 Return with the CRA.
- Trusts that were already required to file a T3 Return will generally be required to provide significantly more information to the CRA.
- Bare trusts are subject to the new reporting requirements.

## Bare Trusts

A “bare trust” is a relationship where one person (the agent) holds title to the property in their name for the benefit of another person (the beneficial owner). The beneficial owner controls the property and has all of the rights and obligations related to the property.

Prior to 2023, bare trusts were not required to file a T3 return because they were not considered a trust for tax purposes.

Under the new rules, a bare trust now exists as a trust for tax filing requirements.

The result is that bare trust relationships that did not have a T3 reporting requirement in prior years will now have to file a T3 return.

Some examples of bare trusts would include: parents putting name on legal title of child’s property for financing purposes, holding an asset in your personal name but beneficially owned by a corporation or another person or an adult child added to their parents bank account to help pay day to day expenses.

Limited exceptions continue to be provided for trusts which:

- Have been in existence for less than three months at the end of the year; or
- Hold less than \$50,000 in assets throughout the taxation year (provided their holdings are confined to cash, certain debt obligations, and listed securities)

Types of trusts specifically exempted from this new reporting requirement include:

- Regulated trusts such as lawyers’ general trust accounts (note that trusts maintained separately for specific clients are not included in this exemption and are subject to the new filing requirement);

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- Trusts that qualify as not-for-profit organizations or registered charities;
- Mutual fund trusts, segregated fund trusts, and master trusts;
- Qualified disability trusts;
- Employee life and health trusts;
- Certain government funded trusts;
- Graduated rate estates;
- Trusts with all units listed on a designated stock exchange;
- Employee profit sharing plans;
- Registered supplementary unemployment benefit plans;
- First home savings accounts;
- Registered savings plans (i.e., RRSP, RESP, TFSA etc.); and
- Cemetery care trusts or a trust governed by an eligible funeral arrangement.

CRA recently announced relief for bare trusts by waiving late-filing penalties for 2023 bare trust T3s, where the T3 return and new T3 Schedule 15 are filed after the filing deadline (April 2, 2024). There is currently no indication on what the deadline is in order to receive the administrative relief from penalties. The waiver of penalties does not apply in situations where failure to file was made knowingly or due to gross negligence.

## **Additional Information Requirements**

The current prescribed T3 forms and schedules require only limited information regarding the parties to the trust.

Under the new rules, every trust that is required to file a T3 return must disclose information that includes the name, address, date of birth, jurisdiction of residence and taxpayer identification number (TIN) (i.e., social insurance number, business number, trust account number or foreign TIN) for each:

- Trustee;
- Beneficiary;
- Settlor; and
- Each person who 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.

Here is a link to the Canada Revenue Agency's website regarding the new trust rules <https://www.canada.ca/en/revenue-agency/services/tax/trust-administrators/t3-return/new-trust-reporting-requirements-t3-filed-tax-years-ending-december-2023.html>

Please contact us if you have any questions/comments or if the above applies to you.