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TaxNewsFlash

Canada

Charities — CRA Provides Relief for Some Trust Reporting

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Registered charities that are trustees of certain internal trusts will not have to separately report these arrangements under the new trust reporting requirements. The CRA has announced that registered charities that are trustees of certain internal trusts, such as endowment funds and donor-advised funds (DAFs), will not have an additional annual requirement to file a T3, "Trust Income Tax and Information Return", for those arrangements on an annual basis. The CRA announced this new limited relief on November 10, 2023.

Although this development will be welcome by registered charities, it's important to note that the CRA's announcement does not extend to all internal trusts. In addition, non-profit organizations (NPOs) will not benefit from this relief. As a result, registered charities and NPOs may still have to file a T3 return for certain internal trust arrangements in accordance with the new trust reporting requirements.

Background
Finance first announced enhanced trust reporting measures in the 2018 federal budget that would require more trusts to file an annual T3 return. These rules were enacted on December 15, 2022 and apply to taxation years ending after December 30, 2023.

Under these broad rules, trusts are required to disclose certain information on each trustee, beneficiary, settlor and protector of the trust, subject to limited exceptions. These rules apply to Canadian-resident express trusts (i.e., generally, trusts created with the settlor's express intent) and certain civil law trusts, as well as non-resident trusts that are currently required to file a T3 return (i.e., deemed resident trusts). Bare trusts are also subject to the new reporting requirements. Although trusts that qualify as non-profit organizations under paragraph 149(1)(l) of the Income Tax Act or as registered charities are not themselves subject to this requirement, this exemption does not extend to their internal trust arrangements.

As a result, many registered charities in Canada sought relief from the CRA from the requirement to file a T3 return for certain internal trusts whose assets are already reported on the charities' annual T3010, "Registered Charity Information Return".

For more information on the new trust reporting requirements, see *TaxNewsNows*, "Federal budget bill #2 receives first reading" and "Federal budget bill #2 now law", *TaxNewsFlash-Canada* 2022-51, "New Reporting Rules – Review Your Trust Structure Now" and *TaxNewsFlash-Canada* 2022-46, "Charities and NPOs – New Trust Reporting Requirement".

CRA relief

In its relief announcement, the CRA clarifies that registered charities are not required to file a T3 return for certain internal trusts. The CRA advises that this relief applies to internal trusts that are created when a charity receives property as a gift that is subject to certain legally enforceable terms and conditions, and holds that property as the trustee of the trust.

Filing still required in some cases

Despite the CRA's relief announcement, registered charities that are trustees of other kinds of internal trusts, as well as NPOs, may still have to file a T3 return for each of those arrangements and report information on each trustee, beneficiary and settlor of the trust, as well as each person who has the ability (through the trust terms or a related agreement) to exert influence over trustee decisions regarding the appointment of income or capital of the trust (e.g., a protector). In particular, the following information must be reported for each of those persons:

- Name
- Address
- Date of birth (if an individual, other than a trust)
- Jurisdiction of residence
- Taxpayer identification number.

A trust will generally be considered to have met the reporting requirements for beneficiaries if the above information is provided for each trust beneficiary whose identity is known or ascertainable with reasonable effort, at the time of filing the T3 return. For beneficiaries whose identities are not known or ascertainable, a trust will also have met the reporting requirements if it provides sufficiently detailed information in the return to determine with certainty whether any particular person is a trust beneficiary.

Registered charities and NPOs do not have a reporting requirement under the new rules for:

- Trusts in existence for less than three months at the end of the tax year
- Trusts that generally hold less than $50,000 in assets throughout the taxation year, if those assets meet certain conditions.

Charities and NPOs that do not meet their reporting obligations may be subject to significant penalties for each trust.

We can help

Your KPMG adviser can help assess the effect of these new reporting requirements. For more details, contact your KPMG adviser.