



# TaxNewsFlash

Canada

## Reporting Relief on the Way for Trusts?

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Fewer trusts (including bare trusts) may soon be subject to the additional trust information filing requirements as a result of recently proposed changes to the trust reporting rules. Finance recently released draft legislation that includes welcome changes to remove the requirement for bare trusts to file a “T3 Trust Income Tax and Information Return” and Schedule 15, “Beneficial Ownership Information of a Trust” for the 2024 taxation year, and expand several other exceptions to provide relief to certain other trusts. These changes, which were included in draft legislation released by Finance on August 12, 2024, also include new rules that would deem certain additional arrangements to be an express trust subject to the reporting requirements, beginning with the 2025 taxation year.

Taxpayers should review the latest changes to the trust reporting rules and assess how their reporting obligations under these rules may be affected for the 2024 and subsequent taxation years. Finance is accepting comments on the draft legislation until September 11, 2024.

### Background

Finance first announced enhanced trust reporting measures in the 2018 federal budget that would require more trusts to file an annual T3 return and disclose additional information. These rules, which were enacted on December 15, 2022, 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 controlling person (e.g., a 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 these trust reporting rules under the current legislation. See *TaxNewsFlash-Canada* 2023-50, “[Trusts — Prepare for Upcoming Reporting Requirements](#)”.

The CRA announced on March 28, 2024 that bare trusts would not have to meet the trust information reporting obligations for their 2023 taxation year, unless the CRA directly requested a filing. At the same time, the CRA advised that it would work with Finance to further clarify its public guidance on this filing requirement. For details, see *TaxNewsFlash-Canada* 2024-14, “[Bare trusts get late-breaking reporting relief](#)”.

### Broader exceptions proposed for the 2024 taxation year

Several changes are proposed to narrow the scope of the filing requirement for taxation years that end after December 30, 2024, including the repeal of the provision that extended the filing requirement to bare trusts, broadening the exception for certain “small trusts” and introducing a new “related party” trust exception, among other changes. As a result, fewer trusts should be subject to the additional filing requirements.

#### *Bare trusts*

The draft legislation removes the filing obligation for bare trusts for the 2024 taxation year by repealing the broadened definition of a trust for purposes of these rules, which includes bare trust arrangements. However, a new narrower definition will replace the repealed definition for the 2025 taxation year and beyond, as outlined below.

#### *Small trusts*

The draft legislation provides a revised exception for a “small trust” that owns any type of property with a total value that does not exceed \$50,000 throughout the taxation year. Under the current rules, only “small trusts” that own specific assets (e.g., money, publicly-traded shares, mutual fund trust units) with a total value not exceeding \$50,000 are exempted from the reporting rules. This broader exception is proposed to apply for taxation years that end after December 30, 2024.

#### *“Related party” trusts*

For trusts that do not meet the threshold of a small trust, the draft legislation introduces a new exception for “related party” trust situations. Under this new exception, a trust is not subject to the trust reporting rules if:

- Each trustee is an individual
- Each beneficiary is an individual that is related to each trustee

- The value of trust property does not exceed \$250,000 throughout the taxation year and the trust holds only certain types of assets.

The allowable types of assets that the trust may hold to qualify under this exception is similar to the allowable assets under the current \$50,000 value exception for small trusts (e.g., money, publicly-traded shares, mutual fund trust units), but has also been expanded to include certain guaranteed investment certificates (GICs), public company debt obligations, and personal use properties, as well as a right to receive undistributed income (e.g., dividends or mutual fund distributions) on its allowable assets.

### *Regulated trust accounts*

The draft legislation also expands the exclusion for certain regulated trust accounts (e.g., lawyer trust accounts) so that these trust accounts are not subject to the reporting rules if they consist only of cash and do not exceed \$250,000 at any time in the year, even if the accounts are maintained as a separate trust for a particular client or clients. Under the current legislation, there is no minimum threshold for reporting of these client-specific trust accounts.

### *Statutory trusts*

A new proposed exception would also exclude certain trusts that are established for the purpose of complying with a federal or provincial statute that requires the trustee or trustees of the trust to hold property in trust for a specified purpose.

### **KPMG observations**

Many trusts will welcome these changes which should significantly reduce the number of trusts that would otherwise be subject to these additional reporting requirements for the 2024 and subsequent tax years. Although bare trusts will not have a filing requirement under the proposed rules for the 2024 calendar year, the conditions of each of the other exceptions will need to be considered carefully for other trusts. For example, a trust that has an unrelated person as a trustee (such as a family friend) would not be able to qualify for the proposed related party exception because each beneficiary must be related to all trustees. It may be possible, under the terms of the trust, to change the unrelated trustee to qualify for the related party exception on a go-forward basis. However, the non-tax implications of making such a change must be carefully considered.

### **New deemed trust definition proposed for the 2025 taxation year**

The draft legislation introduces a new definition of a deemed trust for the purpose of the trust reporting rules, which is proposed to apply to taxation years that end after December 30, 2025. Under this proposed change, an express trust is deemed to include any arrangement under which:

- One or more persons have legal ownership of property that is held for the use of, or benefit of, one or more persons or partnerships
- The legal owner can reasonably be considered to act as agent for the persons or partnerships who have the use of, or benefit of, the property.

In this type of arrangement, each person that has legal ownership of the property is deemed to be a trustee of the trust. Additionally, each person or partnership that has the use or benefit of property is deemed to be a beneficiary of the trust.

There are also several exceptions to the deemed trust definition which would exempt certain arrangements from the trust reporting rules. Under the proposed changes, an arrangement is not deemed to be a trust for the purpose of the trust reporting rules if any of the following conditions apply:

- Each legal owner is also a deemed beneficiary
- The legal owners of real property held in a trust are related individuals and the real property could be designated as the principal residence of one or more of the legal owners for the year
- The legal owner is an individual and the property held is real property that is used by the legal owner's spouse or common-law partner during the year and could be designated as the principal residence of the legal owner for the year
- Each legal owner is a member of a partnership (other than a limited partner) holding property for the sole use by, or benefit of, the partnership, and any member of the partnership is required to file an information return for the partnership for the taxation year
- The legal owner holds the property pursuant to an order of a court
- The property is Canadian resource property that is held solely for the use by, or benefit of, one or more persons or partnerships that are:
  - A publicly-traded corporation (Pubco)
  - A corporation controlled by a Pubco, or
  - A partnership where the majority interest partner is a Pubco or a corporation controlled by a Pubco
- The property consists solely of funds received from the Crown which is held exclusively for the use by, or benefit of, a tax-exempt person under subsection 149(1) of the *Income Tax Act*, and each legal owner is also such a tax-exempt person.

### **KPMG observations**

The proposed exception for trusts holding real estate that is the principal residence of one or more legal owner would provide welcome relief from the trust reporting rules where an adult child is added as a title holder to an elderly parent's principal residence, including for estate planning purposes, or a parent is added as a title holder to a child's principal residence so the child can qualify for a mortgage. There is no threshold on the value of the real estate under this exception. Additionally, the property only needs to qualify as a principal residence for the year, it does not need to be designated as the principal residence of the legal owner or owners.

### **We can help**

Your KPMG adviser can help you assess the effect of these developments on your trust reporting requirements. For more details on your obligations under these rules, contact your KPMG adviser.

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