Trusts:
New reporting requirements

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Certain trusts, including Bare trusts, that were previously not required to file a T3 return will be required to do so under new reporting rules.

Bill C-32, which received Royal Assent on December 15, 2022, enacts legislation for these new requirements, which apply to taxation years ending on or after December 31, 2023. Also, all trusts obligated to file a T3 return under the new rules will have to include a new schedule to report the identity of various stakeholders.

Note that the earlier proposals would have applied the new reporting requirements to years ending on or after December 31, 2022.

Who is impacted?

The legislation clarifies that the new reporting requirements would apply to Bare trusts (originally this had been unclear).

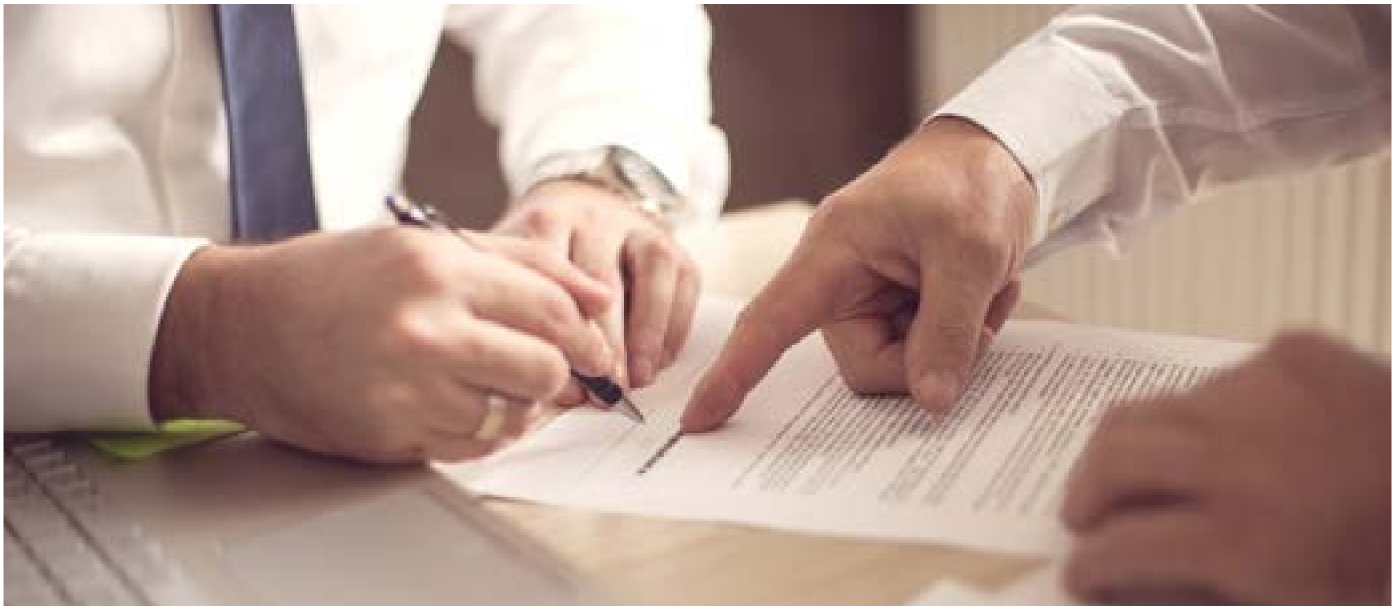
All non-resident trusts that currently must file a T3 return.

Express trusts resident in Canada, with some exceptions.

The following trusts are excluded from the new rules

- Mutual fund trusts, segregated funds, and master trusts
- Trusts governed by registered plans
- Lawyers' and other professionals' general trust accounts
- Graduated rate estates, qualified disability trusts, employee life and health trusts, and certain government-funded trusts
- Trusts that have been in existence for less than three months
- Trusts that hold less than $50,000 in assets throughout the taxation year (provided their holdings are limited to deposits, government debt obligation and listed securities)
- Trusts that qualify as non-profit organizations (NPOs) or registered charities (however, NPOs may still have trust reporting requirements where they hold funds or assets in trust for donors)
- Trusts whose units are all listed on a designated stock exchange
- Cemetery care trusts and trusts governed by eligible funeral arrangements
- Trusts under an employee profit sharing plan
- Trusts under a First Home Savings Account

Under the new rules communications protected by solicitor-client privilege will not be required to be disclosed.



> The new rules will increase the number of trusts obligated to file a T3 return, as well as the amount of information that needs to be provided with each T3 return.

What you need to do

Trusts that were not obligated to file a T3 return under the old regime should determine if they are required to do so under the new rules.

All trusts that are required to file T3 returns under the new rules will need to complete a new schedule (T3 Schedule 15 *Beneficial ownership information of a trust*) to report identification information for all trustees, beneficiaries, and settlors of the trust (which may include those who have loaned property to the trust), as well as each person who can exert control or override trustee decisions).

The additional information requirement will include the name, address, date of birth, jurisdiction of residence, and taxpayer identification number (TIN) for each person identified.

Failure to comply with these requirements will result in significant penalties. If the trust fails to meet the filing timelines, it will be subject to a penalty of $25 per day, with a minimum penalty of $100 and a maximum of $2,500. Moreover, if the trust fails to file—either knowingly or due to gross negligence—the additional penalty will be the greater of $2,500 or 5% of the maximum value of property held during the year.

Additional information

It's prudent for trustees to start familiarizing themselves with the new rules due to the greater compliance requirements in comparison to prior years. We can help you navigate them - contact your local advisor or reach out to us here.

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