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Trusts: Proposed new reporting requirements

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In Budget 2018, the government proposed new reporting requirements for certain trusts that will be applicable to taxation years ending after December 30, 2021.

Certain trusts that were previously not required to file a T3 return, will be required to do so under the proposed rules. Also, all trusts that will be obligated to file a T3 return under the new rules will have to include a new schedule to report the identity of various stakeholders.

Who is impacted?

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)

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

What do 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 that contains additional information about the trust.

CRA has not released a version of this schedule yet, however it is expected to require identification information for all trustees, beneficiaries and settlors of 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 five percent of the maximum value of property held during the year.

Additional information

As of the date of this article, these rules have not received Royal Assent. However, considering the greater compliance requirements in comparison to prior years, it is prudent for trustees to start aligning themselves so they can comply with these new rules, once they come into effect.

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