

KEEPING CURRENT

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No T3s for Registered Charities' Internal Trusts

By Ian Spiegel and Lynne Westerhof

Founded in the 1920s, Gardiner Roberts LLP has grown to become a strategically placed mid-sized business law firm with a diverse client base which includes several of Canada's largest banks, public companies including mining, high tech and software companies, real estate enterprises, lenders and investors.

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After months of uncertainty for the charitable sector, the Canada Revenue Agency has confirmed that registered charities will not need to file a *T3 Trust Income Tax and Information Return* ("T3") for each internal trust they hold. This uncertainty arose after the Department of Finance introduced T3 reporting and filing requirements for certain express trusts, which are set to apply trusts with taxation years ending on or after December 31, 2023.

To provide context, every registered charity in Canada is required to file an annual information return (a Form "T3010"), failing which a registered charity may have its registered status revoked.¹ A T3010 reports information such as the directors of the charity, the programs the charity carries out, and the charity's revenue for the year. However, registered charities have generally been exempt from filing T3s for trusts that are held internally.² For example, a university

may hold internal trusts if donors make large monetary gifts to the university and require that the gifts only be used to fund particular scholarships – in these circumstances, the university would not be required to file a T3 for each gift that is subject to donor restrictions.

The charitable sector became concerned when changes to section 150 of the *Income Tax Act* (the "Act") were introduced by Bill C-32, the *Fall Economic Statement Implementation Act, 2022*. These changes amended the Act to expand the T3 reporting requirements for trusts, and while registered charities that were organized as trusts were specifically exempted from the expanded reporting requirements, it was not clear if registered charities that

charity as those that occur when a charity (a) receives property as a gift that is subject to certain legally enforceable terms and conditions; and (b) holds that property as the trustee of the trust. <https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/t3010-charity-return-before-you-file.html>

¹ Income Tax Act, ss 149.1(14) and 168(1)(c).

² The CRA defines an internal trust of a registered

held trusts were exempted. If registered charities that held internal trusts would be required to file a separate T3 for each internal trust, this would inflict a significant administrative burden on many charities. Therefore, it is welcome news that – following meetings between the Department of Finance, the Canada Revenue Agency (“**CRA**”) and representatives from the charitable sector – the CRA has now clarified that the new T3 requirements will not apply to trusts held internally by registered charities, and that charities will continue to report on their finances and activities annually by filing a T3010.³

If you have any questions about the above information, please contact a member of Gardiner Roberts LLP’s experienced Tax and Estates Planning Group.

(This newsletter is to be used for educational purposes only. Any views expressed herein are not necessarily the views of Gardiner Roberts LLP.)

³ Filing requirements for charities administering internal trusts: <https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/operating-a-registered-charity/t3010-charity-return-before-you-file.html>