

Update: New Reporting Requirements For Trusts

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In a previous [blog post](#)^[1], we discussed the proposed new *T3 Trust Income Tax and Information Return* reporting and filing requirements for certain express trusts. These changes were to be implemented for trusts with taxation years ending on or after December 31, 2021. However, the supporting legislation for these changes remains pending and has not yet received Royal Assent.

The CRA has recently made the following announcement:

The legislation to support this proposed measure is pending. The CRA will administer the new reporting and filing requirements once there is supporting legislation that receives Royal Assent. The CRA will continue to administer the existing rules for trusts, under enacted legislation. The proposed beneficial ownership reporting requirements will not be part of the published 2021 T3 income tax return. This note will be updated when more information is available. You should not delay filing your 2021 T3 tax return.^[2]

This announcement appears to delay the implementation of the proposed reporting and filing requirements until the supporting legislation has received Royal Assent. As discussed in our previous blog, the current administrative policy is that only trusts that have or meet any of the following criteria are required to file a *T3 Trust Income Tax and Information Return* within 90 days after the end of its taxation year:

- a. tax payable;
- b. is resident in Canada and realizes a taxable capital gain or disposes of capital property in the year;
- c. is non-resident throughout the year and has a taxable capital gain or disposes of taxable Canadian property;
- d. is a deemed resident trust;
- e. holds property that is subject to the reversionary trust rule in the *Income Tax Act* (Canada);
- f. has provided a benefit of more than \$100 to a beneficiary for the upkeep, maintenance, or taxes for property maintained for the beneficiary's use;
- g. has total income of more than \$500;
- h. has allocated more than \$100 to a beneficiary;
- i. makes a capital distribution to a beneficiary; or
- j. allocates any portion of its income to a non-resident beneficiary.

Trusts that do not report any income for a taxation year ending December 31, 2021 or are inactive trusts do not appear to be required to file a *T3 Trust Income Tax and Information Return*. For trusts covered by the administrative policy, you should not delay filing your *T3 Trust Income Tax and Information Return* for the taxation year ending December 31, 2021.

We previously suggested that trustees of existing express trusts subject to the new reporting rules may wish to consider:

- a. the possibility of winding up trusts that are either unnecessary or no longer serve an intended purpose, thus avoiding future tax return filing and reporting requirements;
- b. the possibility of removing redundant corporate beneficiaries when setting up new trusts to reduce reporting obligations; and
- c. reviewing trust deeds and wills to determine if a corporation or trust is beneficially interested in the trust or estate and is therefore a beneficiary required to be reported under the new rules.

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Assuming that the supporting legislation receives Royal Assent in 2022, the new requirements will generally apply, even if the trusts are wound up or a change in beneficiaries occurs. However, by following our advice above, trustees can still limit the new reporting and filing requirements to a single year.

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

[1] https://grllp.com/wp-content/uploads/2026/08/Tax_New_Reporting_Requirements_For_Trusts.pdf

[2] https://www.canada.ca/en/revenue-agency/programs/about-canada-revenue-agency-cra/federal-government-budgets/budget-2018-equality-growth-strong-middle-class/reporting-requirements-trusts.html?utm_source=Newsletters&utm_campaign=a2394be8bb-EMAIL_CAMPAIGN_2019_06_27_03_41_COPY_02&utm_medium=email&utm_term=0_720d8ae9f7-a2394be8bb-152625841

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