

NEW REPORTING REQUIREMENTS FOR TRUST YEARS ENDING
AFTER **DECEMBER 30, 2023**

Dear Clients,

Please carefully read this letter whereby we provide an update to the filing requirements for trusts with year-ends from December 31, 2023 on.

Trusts resident in Canada with taxation years ended on December 30, 2023 or before) would generally not be required to file T3 Trust Income Tax and Information Returns (“T3”) unless tax payable based on the income is greater than \$500, or dispositions of capital property during such years.

NEW T3 FILING REQUIREMENTS:

Under the new rules, there are three main changes as indicated below:

- **All trusts, unless certain conditions are met, will be required to file an annual T3 with CRA.**
- **Most trusts will now be required to complete Schedule 15 *Beneficial Ownership Information of a Trust* with their annual T3 for purposes of reporting settlor, trustees and beneficial ownership information.**
- **Bare trusts are now subject to the new reporting requirements (please see further comments below).**

Non-compliance penalties:

- The existing penalties for failure to file a T3 by the due date continue to apply. **Under the new rules, a false statement, omission, or failure to file a return could result in a penalty equal to the greater of \$2,500 or 5% of the highest fair market value of the trust assets during the year.**
- **Effective January 1, 2024, T3 are required to be electronically filed with the CRA. Failure to do so may result in a filing penalty of \$25 for each return.** Please see further comments below in respect to obtaining a trust account number.
- For bare trusts only – the CRA will provide relief to bare trusts by waiving the penalty payable for the 2023 tax year in situations where the T3 return and Schedule 15 are filed after the filing deadline.

Information required:

These new filing requirements will apply to most not previously required to file a T3 -even in cases where no financial activity or movement of trust assets. The minimum new requirements include:

- **Trust account number** – where a trust is required to file for the first time, it will need to obtain a trust account number before we are able to file a T3 electronically. It is critically important to include the trust account number on the T3, payments and all correspondence related to the trust.
- **Schedule 15 Beneficial Ownership Information of a Trust** – every trust is required to complete Schedule 15 to report information including the name, address, date of birth (if applicable), country of residence, and taxpayer identification number (i.e. SIN, business number, or trust account number) for each:

- Settlor
- Trustee
- Beneficiary
- Person who can exert influence over trustee decisions regarding the appointment of income or capital for the trust

Bare Trust:

- For tax purposes, a bare trust is a trust arrangement under which the trustee act as an agent for all the beneficiaries in respect to all matters associated with the trust’s property. A common example of a bare trust where an arrangement exists when, for privacy reasons, a property developer establishes a bare trust arrangement that will hold registered title to real property, while the developer retains beneficial ownership. The reason for splitting the property’s title vs beneficial ownership -whether privacy or any other- is not relevant to the determination of the existence of a bare trust relationship.
- For 2023, those bare trusts will have a taxation year ending on December 31, 2023 and so will be required to file a T3 and complete Schedule 15 -unless specific conditions are met. The same annual filings will be required going forward.
- Like all trusts, a trustee of a bare trust (i.e. person with bare title of the property in trust) is required to register for a trust number.

Certain trusts (defined as “listed trusts”) continue to be exempt from filing a T3 for years in which no activity occurred. These trusts are also exempt from providing information regarding their beneficial ownership. The listed trusts include:

- Graduated-rate estates (estates with year-ends not occurring beyond 36 months of the date of death)
- Qualified disability trusts
- Trusts that qualify as non-profit organizations or registered charities
- Trusts that have existed for less than 3 months at their year-end
- Trusts that, at no point in the fiscal year, hold more than \$50,000 in assets (some exceptions apply)
- Lawyer’s general trust accounts
- Registered savings plans (i.e. RRSP, RESP, TFSA, etc.)

Other trust arrangements:

Aside from the above noted trusts, there are other trust arrangements you should consider that could be impacted by the new filing requirement. Some of the examples include:

- Set up of an in-trust bank account for a child or grandchild
- Property (e.g. family cottage) in which someone is on title for the purpose of estate planning
- Specific client trust accounts held by lawyers, law firms, or property managers

If you have encountered the above situations, please contact us for further discussion to determine if you are required to file a T3.

Filing due date:

The annual T3 and its related slips and schedules are due no later than 90 days after the trust's tax year-end. Any balance owing should also be paid no later than 90 days after that year-end. When the due date falls on a Saturday, Sunday, or public holiday recognized by the CRA the T3 is considered filed and payments made on time if received by CRA on or before the next business day. For December 31, 2023 year-ends, the filing deadline will be **April 2, 2024**.

Many trusts will be required to file for the first time and additional information that was not previously required will now have to be obtained and disclosed. In most cases, we will have to sift through lengthy legal documents, contact CRA, or other tasks to gather the additional information required. Accordingly, our annual T3 preparation fees will increase incrementally by \$400 to \$1,500 over prior year's - depending on complexity and transaction volume, setting our minimum fee for a basic T3 preparation at \$750.

Please contact us as soon as possible, especially if you have not previously provided us information about your trust, you have a special trust situation (i.e. a bare trust agreement), or if in doubt about the new reporting requirements applicable to your situation. If you would like further information, please reach out to your ONBusiness contact (financial services/tax advisor or manager) at (204) 985-6767.

Sincerely,

Your ONBusiness Team