

## TIME SENSITIVE ANNOUNCEMENT

### New Trust Reporting Rules for 2023

### Mandatory Reading for All Taxpayers

Many taxpayers may unknowingly be affected by the new trust reporting rules for the 2023 taxation year. In particular, you may have a Bare Trust that you were not aware of. Please read carefully to see if you may have any filing obligations. Trust returns are due on April 2, 2024.

#### Getting Assistance

The complexity of determining your trust situation (or if you have a Trust) will require the expertise of our professional staff. If you have questions after reading this document, our reception staff will be taking messages only. Following the instructions on Page 4, will be the fastest way to get your questions answered.

#### Changes from Prior Trust Reporting Rules

Previously, trusts with no income or distributions did not need to file a return. Now these trusts must file a Trust Information Return (T3). These trusts include foreign trusts that are deemed resident in Canada. There are few exemptions to this filing requirement.

There is a new trust disclosure document that must be filed with each T3:

Schedule 15 Beneficial Ownership Information of a Trust

Bare Trusts are being treated as regular trusts and must file the T3 and Schedule 15.

#### What is Schedule 15?

Schedule 15 is titled "Beneficial ownership information of a trust" and is filed as part of the Trust Information Return (T3). It discloses the trustees, beneficiaries, settlors and controlling persons of a trust. Further definition of these roles will be provided on the [Schedule 15 Information Form](#) on our website. Names, addresses and tax numbers (including SIN numbers) are required.

#### What is a Bare Trust?

A bare trust relationship exists if the legal title holder is not the same individual as the beneficial asset owner. In other words, the legal title holder holds something in trust for someone else. The legal title holder becomes the trustee and the owner of the asset becomes the beneficiary.

Bare trusts are commonly used for real estate, bank accounts and investment accounts.

The trustee is responsible for holding the title and following the directions of the beneficiary. The trustee is also responsible for filing the T3 return and Schedule 15.

The beneficiary is responsible for instructing the trustee to act as an agent to maintain the trust assets. The beneficiary also reports (on their tax return) any income, gains and losses resulting from the trust assets.

Both trustees and beneficiaries can be persons, companies, other trusts, or any combination of them.

See next page for examples of Bare Trusts

### Examples of Bare Trusts

This list is just a small sampling of potential Bare Trust arrangements. Consider your own situation to determine if you are involved in a trust:

- Corporation or person on title to a property which they are holding in trust for someone else.
- An arrangement to hold a family cottage property.
- A corporation set-up to hold property subject to a secondary will.
- Holding title on behalf of a group of owners in a joint venture.
- A person on title to the bank or investment accounts of an elderly parent.
- A parent on title to the bank or investment account of a minor child or older child.
- Holding "In Trust For" accounts for children, grandchildren or others.
- A parent on title to a child's home for financing purposes.
- A child on title to a parent's home for estate and probate planning.
- Vacation property held by a bank trust.
- Partner of a partnership holding assets for the partnership.
- Foreign assets held by nominee for a Canadian resident.

### Differences Between Bare Trusts, Regular Trusts and POA

In some trust situations, it may be hard to tell the difference between a Bare Trust and a Regular Trust.

The main difference is that Bare Trust trustees are required to follow the beneficiary's directives. Regular Trusts allow trustees to decide how to maintain and distribute trust assets.

Both types of trusts have the same filing requirements, but for this year only, Bare Trusts are exempt from late-filing penalties.

A Power of Attorney (POA) acts directly as the beneficiary's agent but is not on title to the assets and therefore no trust exists. However, if a POA is on title to some assets, then they can be both Trustee (to the assets in the trust) and POA for remainder of the beneficiary's affairs.

### Filing Requirements and Deadlines

If you are a Trustee of any kind of trust, you are responsible for filing the Trust Information Return (T3) including Schedule 15 Beneficial Ownership Information of a Trust.

Trust returns are due 90 days after the trust year end (usually December 31<sup>st</sup>). The filing deadline for 2023 trusts is March 30, 2024. However, because that date falls on a weekend, the deadline is Tuesday, April 2, 2024 being the first business day following the 90 days.

Bare Trusts and Trusts filing with no income or distributions will be filing NIL returns but still require the Schedule 15 disclosure.

See next page for Trust filing requirements

### Filing Penalties

Failure to File or Late Filing penalties are \$25 per day (minimum \$100, maximum \$2,500)

Penalties for False Statements or Omissions made knowingly are 5% of the Fair Market Value (FMV) of the trust's assets (minimum \$2,500). This could be a significant amount depending on the assets.

Additional late penalties and interest are applied when there is a tax balance owing.

Relief of penalties for Bare Trusts in 2023 is limited to Failure to File or Late Filing only. Penalties for False Statements could still apply.

### Which Trusts are Required to File a Return?

The following trusts must file a return (whether or not they meet the exemption criteria in the following section):

- Express trusts, deemed resident trusts and trusts requested to file a return.
- Graduated Rate Estates (GRE) regarding a deceased person.
- If the trust has tax payable, has disposed of capital property, has a capital gain or holds property.
- The trust has provided more than \$100, made a capital distribution or allocated income to a beneficiary.
- The trust's total income from all sources is more than \$500

### Are There Any Exemptions to the Filing Requirements?

There are a few exemptions known as listed trusts. These exemptions only apply if the trust is not subject to the filing requirements listed in the previous section:

- Trusts that have been in existence for less than three months at the end of the year.
- Trusts that hold money assets of less than \$50,000 throughout the year. Money assets are money (bank account), publicly traded stocks, mutual funds, treasury bills. Money assets are NOT coins, precious metals, GIC's, real estate or other physical assets.
- Lawyer's trusts for specific clients (not general trusts).

Other Exemptions: Lawyer's general trusts, Registered charities, Not for Profits, Qualified Disability Trust, Employee health trusts and registered savings plans (RSP, RRSP, TFSA, RESP etc.)

**Government information:** [New trust reporting requirements for T3 returns](#)

**Go to next page for our assistance**



## 2023 Trust Updates Announcement

### What Happens If You Are a Trustee? Getting Assistance

If you are a trustee of any kind of trust (or think you might be) and require our assistance with your filing obligations, complete the next steps:

- 1) Sign and provide the [Koroll & Company Trust Engagement](#) form from our website, outlining and agreeing to our mutual responsibilities.
- 2) Provide Trust Documents: Deed of Trust, Trust Agreement, Trust Indenture, real estate title documents, bank or investment account documents (whichever may apply to your situation).

If you do not have any documents available, describe the trust situation here:

Trustee Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Phone or Email: \_\_\_\_\_

Description of Trust: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- 3) List of Schedule 15 information: trustees, beneficiaries, settlors and controlling persons. Use the form on our website: [Schedule 15 Information Form](#) for definitions of roles and required information.
- 4) Provide information about trust income and/or dispositions, if any.

In order to be accommodated by the filing deadline, we suggest you reach out to us **immediately with steps 1) and 2)** – we will reach out to trustees in sequence after receipt of your information and engagement. Then gather the information in step 3) for inclusion in the trust return filing due April 2, 2024.

### Getting Us Your Information

Send your information to us as quickly as possible. Remember that email communications are not secure and should not be used to send sensitive information. We recommend using our secure Portal. If electronic document delivery is not available to you, we recommend using a courier due to the tight timelines.

For additional information about document delivery, please see our website:

Koroll & Company is here to help in 2024.  
Learn how to reach us and deliver documents:

[Reception PDF](#)

### Complexity of Assistance

Please note that the complexity of determining your trust situation (or if you have a Trust) will require the expertise of our professional staff. If you have questions, our reception staff will be taking messages only. Providing the information listed above, along with a signed [Trust Engagement](#) letter, will be the fastest way to get your questions answered.

Thank you for your understanding.