Not “trusting” average Canadians: Exceptions added to new trust reporting rules

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UPDATE: October 21, 2025

On August 15, 2025, the Department of Finance Canada released various draft legislative proposals, including those pertaining to the trust reporting rules (the 2025 Trust Reporting Proposals). The 2025 Trust Reporting Proposals generally re-introduced the proposed amendments to the trust reporting rules that were released by the Department of Finance Canada on August 12, 2024 (as explained in the bulletin below), with some additional modifications.

Bare trusts have generally been required to file a tax return for taxation years ending on or after December 31, 2023. However, the CRA administratively waived the filing obligation for a bare trust's 2023 and 2024 taxation years, unless the CRA directly requested that the tax return be filed. The 2025 Trust Reporting Proposals include provisions that exempt certain bare trusts from having to file a return. While these proposed exemptions for bare trusts are welcome, there is some uncertainty as to whether they will become law before the filing due date for a bare trust's 2025 taxation year. In light of this uncertainty, CPA Canada reported that it had contacted the CRA to determine whether the CRA would extend its administrative waiver for bare trust filings for the 2025 taxation year. The CRA confirmed that it will extend the bare trust administrative filing waiver if the 2025 Trust Reporting Proposals are not enacted well in advance of the filing deadline. Stay tuned for further developments on this issue.

The remainder of this article was published on September 5, 2024, and it has not been otherwise amended to reflect the above update.

Earlier this year, new enhanced reporting obligations for many express trusts (that is, defined to include intentionally created trusts, as well as bare trust arrangements) for taxation years ending on or after Dec. 31, 2023, resulted in a widespread public and media outcry. A few days before the April 2, 2024, filing deadline, the CRA announced it relieved bare trusts from the filing obligations for the 2023 tax year.

BLG covered in a previous article the details of these enhanced reporting requirements, which include the provision of detailed information for each trustee, beneficiary and

settlor of the trust, as well as any person who has the ability to exert influence over trustee decisions regarding the allocation of trust income or capital in a year.

On Aug. 12, 2024, in response to the backlash, the Department of Finance Canada released proposed amendments to these rules.

What trustees need to know

The proposed amendments:

- Expand the categories of trusts that may be exempt from the enhanced trust reporting rules;
- Narrow the definition of who would qualify as a settlor under the enhanced reporting rules; and
- Repeal the controversial bare trust reporting rules for the 2024 taxation year, and replace these rules with a new reporting obligation for a new category of "deemed trusts" arrangements, for taxation years ending on Dec. 31, 2025, and later.

However, the rules remain extremely complex. Determining which trusts are required to file returns will continue to be costly and cumbersome in many cases.

Trusts relieved from enhanced reporting obligations

Small trust exception

The current rules exempt trusts that hold assets with a total fair market value (FMV) that does not exceed $50,000 throughout the year, provided they only hold certain designated assets. Under the proposed rules, a trust will be exempt from reporting if it holds assets with a total FMV that does not exceed $50,000 for the year, regardless of the assets held.

New related party / family trust exception

A new reporting exemption is also available for a trust that meets all of the following conditions:

- Each trustee is an individual;
- Each beneficiary is an individual and is related to each trustee; and
- The total FMV of the property does not exceed $250,000 throughout the year, and the only assets held by the trust are one or more of:
    - Money;
    - A guaranteed investment certificate issued by a Canadian bank or trust;
    - A debt obligation described in the definition of 'fully exempt interest";
    - Debt obligations issued by:
        - A corporation, mutual fund trust or limited partnership the share or units of which are listed on a designated stock exchange in Canada;

        - A corporation the shares of which are listed on a designated stock exchange outside Canada;
        - An authorized foreign bank that are payable at a branch in Canada of the bank;
    - Share, debt obligation or right listed on a designated stock exchange;
    - Share of the capital stock of a mutual fund corporation;
    - Unit of a mutual fund trust;
    - Interest in a related segregated fund trust;
    - Interest as a beneficiary under a trust, all the units of which are listed on a designated stock exchange;
    - Personal-use property of the trust; or
    - A right to receive income on the property described above.

Regulated trust fund exception

Trusts required by rules of professional conduct or by law to hold funds for the purposes of the activity that is regulated under those rules or laws are currently exempt, provided these funds are not segregated into a separate fund for a particular client or clients. For example, lawyers generally have two types of trust accounts: (i) general trust accounts (that is, a trust account where funds belonging to different clients are pooled together) and (ii) client-specific trust accounts (that is, a separate trust account for a particular client's or clients' trust funds). Under current rules, the general trust account is exempt from the reporting obligations.

The proposed rules will also exempt smaller client-specific trust accounts where the only assets held by the trust throughout the year are money with a value that does not exceed $250,000. Note that it does not appear that the exemption extends to client-specific trust accounts that hold guaranteed investment certificates.

Statutory trust exemption

A new exemption will be available for a trust established for the purpose of complying with a statute of Canada or a province that requires the person acting as trustee of the trust to hold property in trust for a specified purpose. The explanatory notes released with the proposed legislation suggest this exemption would apply for trust relationships such as bankruptcy trusteeships and provincial guardianships.

Settlor

The proposed amendments will narrow the definition of settlor to except persons and partnerships that made transfers to the trust for fair market value consideration or pursuant to a legal obligation to make the transfer. Such persons and partnerships will not be considered a settlor for as long as they receive fair market value consideration for the transfer, even if they have a non-arm's-length relationship with the trust. This change will apply for taxation years ending on or after Dec. 31, 2024.

New "deemed" trusts rules

Much of the controversy over the trust reporting rules was focused on rules relating to the reporting of bare trust relationships, which constitute a form of agency relationship and are generally ignored for other income tax purposes. The current rules subject bare trust relationships to the enhanced tax reporting requirements, including reporting of beneficial ownership information.

The proposed amendments repeal these provisions for taxation years ending after Dec. 30, 2024 (practically exempting all such trusts with calendar year ends from filing for the 2024 taxation year). For taxation years that end after Dec. 30, 2025 (that is, the 2025 taxation year for trusts with calendar year ends), arrangements that constitute a deemed trust will be subject to the enhanced trust reporting rules. The deemed trust definition is designed to provide greater certainty as to which types of arrangements — where legal ownership is separated from beneficial ownership — are subject to enhanced reporting.

Under the proposed legislation, a deemed trust is an arrangement where one or more persons (referred to as “legal owner”) have legal ownership of the property that is held for the use of, or benefit of, one or more persons or partnerships, and the legal owner can reasonably be considered to act as agent for the persons or partnerships who have the use of, or benefit of, the property.

For the purposes of the trust reporting rules, each person that is a legal owner of an arrangement that is described above is deemed to be a trustee of that deemed trust, and each person or partnership that has the use or benefit of the property under an arrangement described above is deemed to be a beneficiary of the deemed trust. Where a partnership is a beneficiary of a trust, the proposed amendments require certain prescribed information about the partnership to be reported.

There are several exceptions to the deemed trust reporting rules. An arrangement will not be considered to be a deemed trust if any of the following conditions apply:

1. Each person or partnership that is deemed to be a beneficiary at any time in the year is also a legal owner of the property (and there are no legal owners that are not deemed to be beneficiaries). The explanatory notes clarify that this applies where individuals hold property both for their own use and for that of another person, such as where family members hold a joint bank account.
2. The legal owners are individuals that are related persons and the property is real property that would be the principal residence of one or more of the legal owners if those legal owners had designated the property as such (such as, for example, arrangements where a parent is on title to allow a child to obtain a mortgage).
3. The legal owner is an individual and the property is real property that is held for the use of or benefit of the legal owner’s spouse or common-law partner during the year and would be the legal owner’s principal residence for the year if the legal owner had designated the property as such. This accommodates a family home occupied by both spouses where only one spouse is on title.
4. Under an arrangement the property is held throughout the year solely for the use of, or benefit of, a partnership, and each legal owner is a partner (other than a limited partner) of the partnership, and a partnership information return is filed by a partner for the year.
5. The legal owner holds the property under a court order.

6. The property under the arrangement is Canadian resource property that is held solely for the use of or benefit of one or more persons or partnerships, each of which is a publicly traded company, or a subsidiary, or partnership of such a company.
7. An arrangement where property is held exclusively for the use of, or benefit of, one or more tax-exempt persons (a Tax-Exempt) described under subsection 149(1) of the *Income Tax Act* (Canada), each legal owner is a Tax-Exempt, and the property consists solely of funds received from the Crown by that Tax-Exempt.

Solicitor-client privilege

There has been no change to the rules relating to solicitor-client privilege, and information protected by solicitor-client privilege need not be reported. Check out our January 2024 article for more information on the solicitor-client privilege and the 2022 amendments to the CRA reporting requirements.

Contact us

For more information on these recent exemptions to the new trust reporting obligations in Canada, please reach out to one of our key contacts below or any lawyer from BLG's Tax Group.

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