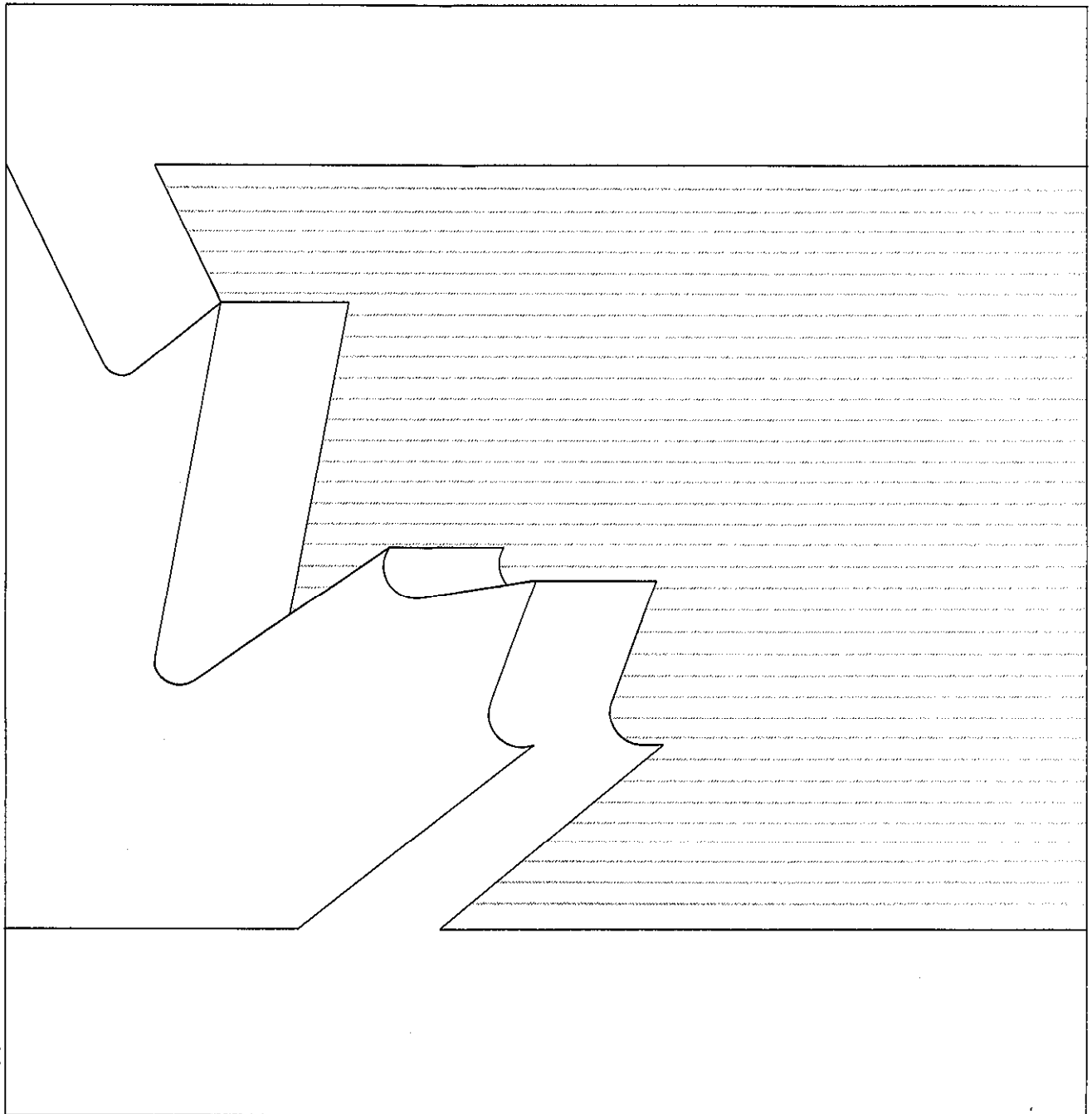




T3

Guide and Trust Return



T4013(E) Rev. 91

Changes for 1991

Changes in the return and schedules for 1991

- *T3 Trust Income Tax Return and Information Return* — Non-profit organizations will have to check the new box in the "Identification area" on page 1. If incorporated, they must also enter their corporation account number in the space provided.
- T3 Supplementary — There are two new boxes to complete. They are box 16, "Report code" and box 18, "Beneficiary code." Details are provided under guide item "Completing the T3 Supplementary Form."
- T3 Summary — This is a new form that should be used to summarize the amounts reported on the T3 Supplementaries.

Pending legislative changes

The T3 guide and return include changes to the *Income Tax Act* introduced by the Minister of Finance on May 30, 1991 (and draft income tax legislation released on February 11, 1991). These had not yet become law at the time of printing. However, we are preparing to apply the proposed changes. We have identified the pending legislative changes throughout this guide.

The following changes are from Bill C-18 tabled in the House of Commons on May 30, 1991: (The first five items appeared in the 1990 guide as they were included in draft income tax legislation released on July 13, 1990.)

- A post-1971 spousal trust is exempt from minimum tax on its income in the taxation year in which the beneficiary spouse dies. This retroactive provision applies to the 1986 and subsequent taxation years.
- A pre-1986 net capital loss is claimed at the 50% inclusion rate under which it was determined when it is claimed against income other than taxable capital gains. This means that, when claiming the \$2,000 amount against income other than taxable capital gains, no adjustment is made to the pre-1986 net capital loss to reflect the current year inclusion rate. This amendment applies to 1985 and subsequent taxation years.
- If you are requesting a clearance certificate, use the new Form TX19, *Request for Clearance Certificate*. Obtain this form from your district taxation office.
- A communal organization that makes charitable donations can elect to designate the donations to its beneficiaries in the same proportion that it elects to allocate income to those beneficiaries. This amendment applies to 1990 and subsequent taxation years.
- The additional federal surtax has increased to 5% and is imposed on basic federal tax that is more than \$12,500. This amendment applies to 1991 and subsequent taxation years.
- A testamentary trust that receives a benefit under a foreign retirement arrangement, can designate this amount to a beneficiary for purposes of a paragraph 60(j) transfer to a Registered Retirement Savings Plan (RRSP) or Registered Pension Plan (RPP). This amendment applies to 1990 and subsequent taxation years for payments received after July 13, 1990.

The following changes are from draft income tax legislation released on February 11, 1991:

- The major proposed changes in this release affect the 21-year deemed realization rule for trusts. Without these changes, most trusts that have been in existence since 1971 would have to report accrued gains in 1993 on capital properties held on January 1, 1993.
- The deemed realization day is generally:
 - for a trust that is a pre-1972 spousal trust on January 1, 1993 — either January 1, 1993 or the day the beneficiary spouse dies, whichever date is later;
 - for a post-1971 spousal trust — the day the beneficiary spouse dies;
 - for other trusts — 21 years after January 1, 1972 or the day on which the trust was created, whichever date is later.

This amendment applies after February 11, 1991.

- Except for post-1971 spousal trusts, a trust can elect to defer the application of the deemed realization rule if the trust has an "exempt" beneficiary alive at the end of the taxation year to which the rule would otherwise apply. To make the election, use the new T1015 form. Form T1015 must be filed within six months after the end of the taxation year to which the rule applies. This amendment applies after February 11, 1991.

- A trust can elect to pay the tax arising from the application of the deemed realization rule, with applicable interest, in up to 10 annual instalments. To make the election, use the new form (number not yet available). This amendment applies to 1993 and subsequent taxation years.
- For more details on the deemed realization rules, see guide item "Deemed disposition — 21-year rule." Pre-1972 spousal trusts and post-1971 spousal trusts are defined in the guide under "Types of trusts."
- A personal trust will generally be able to claim property as a principal residence if the property was used as such by one of the trust's beneficiaries. This amendment applies to dispositions made after 1990.

Other changes

- **Investment clubs** — For fiscal periods ending after December 31, 1990, an investment club that elects to be taxed on a "modified partnership basis" will have to file a *Partnership Information Return* instead of a T3 return. For more details, refer to the *Guide to the Partnership Information Return*.
- **Alberta royalty tax credit** — As a result of amendments to Alberta legislation, the Alberta royalty tax credit for trusts and individuals has been incorporated into the *Alberta Corporate Tax Act* as the Alberta royalty credit. For 1991 and subsequent taxation years, this credit must be claimed from the province. For more details, see guide item, "Line 1444."

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Basic information

This guide contains information to help you complete the 1991 *T3 Trust Income Tax Return and Information Return (T3 return)*. Throughout the guide, we refer to information contained in publications such as interpretation bulletins, information circulars and other guides. These publications are available at your district office.

This information is intended as a guide only and is not a substitute for the *Income Tax Act* and Regulations. The headings for most items contain references to relevant provisions of the *Income Tax Act* and Regulations.

Filing requirements

Who should file

An executor, trustee, administrator, assignee or receiver who owns or controls property on behalf of some other person is referred to as the trustee of a trust.

A trustee files a T3 return if income from the trust property is subject to tax **and** the trust:

- has tax payable; **or**
- has a taxable capital gain or has disposed of a capital property; **or**
- receives income, gains or profits from the trust property that is designated, paid or payable to one or more beneficiaries; **and**
 - total income on line 20 of page 2 of the T3 return is over \$500; **or**
 - the income designated, paid or payable to any single beneficiary is over \$100; **or**
 - any portion of the income is allocated to a non-resident beneficiary.

A trust return may not be required if an estate is distributed immediately after the person dies, or if no income was earned by the estate before the proceeds were distributed. In this case, the trustee should give each beneficiary a statement showing his or her share of the estate.

Other filing requirements

- A "related segregated fund trust" has to file a T3 return for its registered and non-registered funds.
- A communal organization has to file a T3 return. See Information Circular 78-5R2, *Communal Organizations*.
- Employee benefit plans and employee trusts have to file T3 returns if the total receipts in the year are more than \$500, whether or not they are from contributions, gross income or a combination of the two. Report the income of the beneficiaries on T4A Supplementary forms rather than on T3 Supplementary forms.
- If a non-profit organization's main purpose is to provide dining, recreational, or sporting facilities for its members, it has to file a T3 return if its gross or total income from property is more than \$500. See the "Non-profit organizations" section in this guide.
- Each of the trusts listed below has to file its own special T3 return:
 - Registered retirement savings plan
 - Amended registered retirement savings plan

- Registered retirement income fund
- Deferred profit sharing plan
- Revoked deferred profit sharing plan
- Registered pension fund or plan
- Supplementary unemployment benefit plan
- Registered investment

For details, see Information Circular 78-14R2, *Guidelines for Trust Companies and Other Persons Responsible for Filing T3R-IND, T3R-G, etc.*

- A Retirement Compensation Arrangement (RCA) has to file a T3-RCA, *Part XI.3 Tax Return*. For details, refer to the *Retirement Compensation Arrangement Guide*.
- A registered charity has to file a T3010, *Registered Charity Information Return and Public Information Return*. For details, refer to the *Guide to the Charity Information Return*.
- A trustee or receiver appointed under the *Bankruptcy Act*, who is acting on behalf of an individual, should file a T1 return rather than a T3 return.
- An agent, nominee or custodian not acting in a fiduciary capacity should file a *T5 Return of Investment Income* for payments of investment income, if acting on behalf of a resident of Canada. For details, see the *T5 Guide, Return of Investment Income*.

What to file

- *T3 Trust Income Tax Return and Information Return*, related schedules and statements — one copy.
- T3 Summary and T3 Supplementary — one copy of each form.
- T4A Supplementary — for beneficiaries of employee benefit plans and employee trusts.
- NR4B Summary and NR4B Supplementary — if non-resident beneficiaries. See guide item, "Trust Schedule 10."

As we update the forms each year, be sure to use the most recent version available. The year appears on the top right corner of the form. For example, "T3 1991" identifies the 1991 version of the *T3 Trust Income Tax Return and Information Return*, and "Rev. 91" identifies the 1991 trust schedules. If you have to file a return for the 1992 taxation year, and the 1992 return is not yet available, you may use the 1991 version. If you are filing a return for an earlier year (e.g., 1990), please complete the return and schedules designed for that year (T3 1990 and Rev. 90), because different tax rates and rules apply.

When to file

Within **90** days from the end of the trust's taxation year.

If the required filing date for a T3 return falls on a Saturday, Sunday, or statutory holiday, we will accept the return as filed on time if it is delivered on, or the postmark on the envelope is for, the first working day following the required filing date.

For purposes of determining if a return is filed on time, a return sent by first class mail or its equivalent (e.g., a

courier service) is considered to have been received on the day it was mailed.

For more information on taxation year, see guide item, "Taxation year." See the "Penalties and interest" section in this guide for information on late-filing penalties and interest on unpaid taxes.

Where to file

The mailing address of the trustee, rather than the address of the trust, determines the taxation centre to which the return should be mailed.

<u>Trusts served by district offices located in</u>	<u>Should file with</u>
Newfoundland, Prince Edward Island, Nova Scotia, New Brunswick.	Taxation Centre <u>Freshwater Road/Empire Avenue</u> St. John's, Newfoundland <u>A1B 3Z1</u>
Québec City, Sherbrooke, Rouyn-Noranda, Chicoutimi, Rimouski and Trois-Rivières.	Taxation Centre <u>2251 de la Centrale Blvd. Jonquière, Quebec</u> <u>G7S 5J1</u>
Montréal, St. Hubert and Laval.	Taxation Centre <u>4695, 12th Avenue Shawinigan-Sud, Quebec</u> <u>G9N 7S6</u>
Ottawa, Toronto, Mississauga, Scarborough and North York.	Taxation Centre <u>875 Heron Road</u> Ottawa, Ontario <u>K1A 1A2</u>
All other areas of Ontario.	Taxation Centre <u>1050 Notre Dame Avenue</u> Sudbury, Ontario <u>P3A 5C1</u>
Manitoba, Saskatchewan, Alberta.	Taxation Centre <u>66 Stapon Road</u> Winnipeg, Manitoba <u>R3C 3M2</u>
British Columbia.	Taxation Centre <u>9755 King George Highway</u> Surrey, British Columbia <u>V3T 5E1</u>

Direct telephone enquiries regarding trusts resident in Canada to your district office. Telephone numbers and addresses are listed at the back of this guide.

Non-resident trusts

If the trustee, executor, administrator or other legal representative who manages the trust or controls trust assets lives outside Canada, the trust return should be mailed to:

International Taxation Office
875 Heron Road
Ottawa, Ontario
K1A 1A8

Direct telephone enquiries regarding non-resident trusts to the International Taxation Office.

If calling from the Ottawa area, dial 952-8753
Other calls from inside Canada 1-800-267-5177
Calls from outside Canada 1-613-952-8753

Residence of trust

A trust may be a resident of Canada, or a non-resident of Canada, and it may be a resident of a particular province or territory within Canada. Residency is a question of fact to be determined according to the circumstances in each case. However, a trust is generally considered to reside where the trustee, executor, administrator or other legal representative who manages the trust or controls the trust's assets resides. For more information, obtain Interpretation Bulletin IT-447, *Residence of a Trust or Estate*.

Forms available for filing

- *T3 Trust Income Tax Return and Information Return*
- Trust Schedules 1 to 14
- T3 Summary and T3 Supplementary

T3 Trust Income Tax Return and Information Return

The *T3 Trust Income Tax Return and Information Return* consists of a four-page form and related schedules on which the preparer:

- completes the "Identification area" in full;
- reports income and deductions to arrive at net income;
- deducts the trust income allocated or designated (or both) to the beneficiaries, where applicable;
- claims the deductions to arrive at taxable income; and
- determines the tax payable, if any.

Trust Schedules 1 to 14

Complete the following schedules, if they apply:

Trust Schedule 1 (lines 101 to 122)	<i>Summary of Dispositions of Capital Property</i>
Trust Schedule 2 (lines 210 to 216)	<i>Calculation of Reserves on Dispositions of Capital Property</i>
Trust Schedule 3 (lines 301 to 334)	<i>Calculation of a Trust's Eligible Taxable Capital Gains</i>
Trust Schedule 4 (line 401 to 430)	<i>Calculation of Cumulative Net Investment Loss</i>
Trust Schedule 5 (lines 501 to 525)	<i>Beneficiary Spouse Information and Calculation of Spouse Trust's Capital Gains Deduction</i>
Trust Schedule 6 (lines 610 to 613)	<i>Calculation of Total Taxable Capital Gains Attributable to Qualified Farm Property or Qualified Small Business Corporation Shares</i>
Trust Schedule 7	<i>Statement of Pension Income Allocations/Designations</i>
Trust Schedule 8 (lines 805 to 824)	<i>Statement of Investment Income and Calculation of Gross-up Amount of Dividends Retained by the Trust</i>
Trust Schedule 9 (lines 901 to 944)	<i>Summary of Income Allocations/Designations to Beneficiaries</i>
Trust Schedule 10 (lines 1001 to 1031)	<i>Calculation of Part XII.2 Tax and Part XIII Non-resident Withholding Tax</i>
Trust Schedule 11 (lines 1101 to 1130)	<i>Calculation of Federal Income Tax</i>
Trust Schedule 12 (lines 1201 to 1269)	<i>Calculation of Minimum Tax</i>

Trust Schedule 13
(lines 1301 to 1346) *Calculation of Provincial Income Tax of Newfoundland, Prince Edward Island, Nova Scotia, New Brunswick and Ontario*

Trust Schedule 14
(lines 1401 to 1484) *Calculation of Provincial Income Tax of Manitoba, Saskatchewan, Alberta and British Columbia and Territorial Income Tax of the Northwest Territories and Yukon Territory*

Two copies of the *T3 Trust Income Tax Return and Information Return* and of each schedule are in the centre of this guide. You may obtain additional copies of the return or any schedule from your district office.

Supplementaries and summary

Complete the following forms, if they apply:

T3 Supplementary Statement for recording amounts paid or payable (allocated or designated) to a resident beneficiary, or amounts elected to be included in a preferred beneficiary's income.

T3 Summary Records the totals of the amounts reported on all the related T3 Supplementaries.

T4A Supplementary Statement for recording amounts paid or allocated to the beneficiaries of employee benefit plans or employee trusts.

NR4B Supplementary Statement of amounts paid or credited to non-residents of Canada.

You may obtain these forms (T3/T4A/NR4B Summaries and Supplementaries) from your district office.

See guide items "Completing the T3 Supplementary form" and "Completing the NR4B Summary and NR4B Supplementary forms" for details on how to prepare these two information slips. For more information on preparing the T4A Supplementary, see the *Employers' Guide to Payroll Deductions*.

Taxation year 104(23), 150(1), 153(2), 248, 249, Regulation 204

Testamentary trust

A testamentary trust is a trust or estate that forms when a person dies. The taxation year of a testamentary trust may, but does not have to, coincide with the calendar year. The first taxation period of the trust begins on the day the person dies and ends at any time (as selected by the trustee) within the next 12 months.

Once this year-end is established, it may not be changed without first obtaining our approval. A T3 return for a testamentary trust has to be filed, and the tax owing has to be paid to the Receiver General, within 90 days from the end of the trust's established taxation year.

There are several reasons why the trustee may find it advantageous to choose a calendar year-end (December 31) for a testamentary trust:

- Availability of forms — The current year trust returns and related schedules are usually not available until near the end of the calendar year (i.e., the 1992 T3 returns and schedules will not be available

until the end of 1992). A 1992 return due before the forms are available would have to be filed on a 1991 form, which may not contain current-year changes or information.

- More timely receipt of a *Notice of Assessment* — Amendments to the *Income Tax Act* generally require changing the procedures for processing returns. We may have to delay the assessment of a return that has a taxation year ending early in a calendar year until the legislation has been passed by Parliament, and the revised procedures are in place.
- Generally, it is easier to complete forms and to interpret rules when the taxation year falls within the calendar year.
- Availability of information — Most information slips for income amounts (e.g., T5 slip for bank interest) are issued on a calendar-year basis.
- A calendar year-end may be more advantageous to the beneficiaries. For example, the deduction for acquiring an annuity for a minor under paragraph 60(1) is only available to the minor in the year the income is reported on the minor's return. In addition, to be deductible, the annuity must be acquired for the minor during that year or within 60 days after the end of that year. In many cases, the tax benefits to the minor are greater if the trust has a calendar year-end rather than a year-end based on the date a person dies, since the term of the annuity may not be more than 18 years minus the age of the minor.

For a more complete definition of testamentary trust, see "Types of trusts" in this guide.

Inter vivos trust

An inter vivos trust is a trust other than a testamentary trust. The taxation year of an inter vivos trust must always coincide with the calendar year. A T3 return for an inter vivos trust must be filed, and the balance of tax owing has to be paid to the Receiver General within 90 days from the end of the trust's taxation year.

Final return

If a trust is wound up (discontinued) during a taxation year, the trustee may wish to file a final return before the end of the trust's normal taxation year. This return may be accepted in some circumstances, for example, when there is no income in the trust after the date it is wound up (or discontinued). A clearance certificate may be issued in such circumstances provided all requirements for a clearance certificate are satisfied. For more information on clearance certificates, see guide item, "Clearance certificate."

Penalties and interest

Late-filing penalties 162(1),(2),(7)

- As an **income tax return**, the penalty for not filing by the required date is 5% of the **unpaid** tax at that date, plus 1% of the **unpaid** tax for each full month (to a maximum of 12 months) that the return is past due. This penalty will apply when income is taxable in the trust.

The return is subject to a greater penalty if we issue a demand to file the return under subsection 150(2), and we assess a late-filing penalty for any of the three

preceding taxation years. The penalty is 10% of the unpaid tax plus 2% of the unpaid tax for each complete month, to a maximum of 20 months, that the return is late.

- As an **information return**, the penalty for not filing by the required date is \$25 for each day of default to a maximum of \$2,500. The minimum penalty is \$100. This penalty applies when income is allocated or designated to beneficiaries. It applies to the late filing of the return, and to the late distribution of supplementaries to the recipients.

Persons who do not file an information return as required under the *Income Tax Regulations* may be guilty of an offence. In addition to any other penalty, they are liable on summary conviction to: a fine ranging from a minimum of \$1,000 to a maximum of \$25,000; or both a fine and imprisonment for a term of up to 12 months.

Interest 161

Interest is charged at a prescribed rate on unpaid amounts, including interest and penalties, from the date the return was due to be filed until the date of payment. Interest is compounded daily.

Reassessments 152(3.1)

After initial processing and assessment, we may select some T3 returns for further review or audit. We may reassess a return of income or make additional assessments, or assess tax, interest or penalties within three years (four years for mutual trusts) from the day of mailing of either:

- a notice of an original assessment; or
- a notice that no tax is payable for the taxation year.

A trustee may ask us for a reassessment. If so, mail the request within the time limit specified above to the taxation centre where the original return was filed. Be sure to include the account number of the trust on all correspondence.

There is no time limit for reassessments based on misrepresentation due to neglect, carelessness, wilful default or when a fraud has been committed when filing the return or supplying any information required under the Act.

Books and records 230, Regulation 5800

Books and records necessary to verify the accuracy of the reported gross and net incomes from business or property must be maintained for the period or periods provided by

the *Income Tax Act* and Regulations, or until written permission is obtained from us for their disposal. See Information Circular 78-10R2, *Books and Records Retention/Destruction* for details.

Clearance certificate 159(2),(3)

The *Income Tax Act* requires that every administrator, executor and trustee (the "responsible representative") obtain a clearance certificate before distributing any property under their control, if they wish to avoid being personally liable for unpaid taxes, interest and penalties.

We cannot issue a clearance certificate until all the required T3 returns have been filed and assessed, and all taxes, interest and penalties have been paid or secured. After receiving the final *Notice of Assessment* and paying or securing any balances owing, the responsible representative should send Form TX19, *Request for Clearance Certificate*, directly to the Business Audit Section at the appropriate district office. Contact your district office to obtain a copy of Form TX19.

To facilitate the processing of the clearance certificate, the responsible representative should ensure that all information and documentation (e.g., will, trust document, etc.) requested on the form has been sent to us. It is not necessary to resubmit documents that have been previously filed with us. If you are uncertain as to which documents have already been filed, attach all the necessary documentation with your request.

Privacy Act

The *Privacy Act* protects the privacy of individual beneficiaries to whom the information contained in the T3 return pertains. The information provided by the trustee is needed to assess the trust's income tax liability under the *Income Tax Act*.

Improving the guide

We review this guide each year and make any changes we feel will improve the explanations provided. If you have problems with a particular explanation, or you have any comments or suggestions to make about this guide, we'd be pleased to hear from you.

Just write a letter expressing your concerns to:

Tax Forms Directorate
875 Heron Road
Ottawa, Ontario
K1A 0L8.

Types of trusts

Testamentary trust 108(1)(i), 70(6.1)

A testamentary trust is a trust or estate that forms when a person dies. The terms of the trust are established by the will, by law in the case of an intestacy, or by court order, (e.g., according to dependant's relief legislation).

A testamentary trust does **not** include:

- a trust created by any person except a deceased individual;

- a trust created after November 12, 1981 if, before the end of the taxation year, some property was contributed to the trust except as a result of a person's death;
- a trust created before November 13, 1981 if:
 - after June 28, 1982, property was contributed to the trust except as a result of a person's death;

or

- before the end of the taxation year, the fair market value of all property owned by the trust that was

contributed by persons except an individual on death and property substituted therefor **exceeds** the fair market value of all property owned by the trust that was contributed by the person on death and property substituted therefor. In this calculation, the fair market value of property refers to its fair market value on the date on which the trust acquired the property.

If a trustee retains control of the assets rather than distributing them according to the will, the trust **may** become an inter vivos trust. If this is the case, the fiscal period of the trust must be changed to the calendar year, if the trust is not already filing on this basis. On the first return with a December 31 year end, attach a note explaining the situation. (In the year of change, the fiscal period may be less than, but may not exceed, 12 months.)

Inter vivos trust 108(1)(f)

An inter vivos trust is a trust other than a testamentary trust.

The paragraphs below explain other definitions and terms that are used to further describe testamentary and inter vivos trusts.

Spouse trust 70(6), 70(6.2), 73(1)(c)

A spouse trust may be either a testamentary trust or an inter vivos trust created for a spouse by an individual under which:

- the spouse is entitled to receive all of the income of the trust that may arise during the spouse's lifetime; and
- the spouse is the only person who may receive, or otherwise obtain, the use of any income or capital of the trust during the spouse's lifetime.

A further requirement is that at the time the property is transferred to the trust, both the settlor (individual who creates the trust) and the trust must be resident in Canada. In the case of the testamentary spouse trust, the settlor must be living in Canada immediately before death, while the trust must be resident in Canada immediately after the property vests in the trust. The trust may not qualify as a spouse trust if benefits to the spouse change or cease upon remarriage.

The term "tainted spouse trust" is commonly used to refer to a trust created in favour of a spouse that does not meet the qualifications of a spouse trust. More details about spouse trusts are provided in Interpretation Bulletins IT-305R3, *Establishment of Testamentary Spouse Trust*, and IT-207R, *"Tainted" Spouse Trusts*.

Pending legislation — From February 11, 1991 draft income tax legislation, effective after February 11, 1991

Spouse, or former spouse, includes a party to a voidable or void marriage.

A **pre-1972 spousal trust** includes:

- a testamentary trust created before 1972;
- an inter vivos trust created before June 18, 1971;

where only the beneficiary spouse was entitled to receive income of the trust, or did receive or had the use of any

income of the trust for the period commencing on the day the trust was created, and ending on the earliest of:

- the day on which the beneficiary spouse dies;
- January 1, 1993;
- the particular time on which the definition is applied.

The trust will not qualify as a pre-1972 spousal trust if, at any time in the period described above, a person other than the beneficiary spouse received or otherwise obtained the benefit of the trust income or capital.

A **post-1971 spousal trust** includes:

- a testamentary trust created after 1971;
 - an inter vivos trust created after June 17, 1971;
- where the beneficiary spouse, while alive, is the only person entitled to receive or use the income or capital of the trust.

The terms "pre-1972 spousal trust" and "post-1971 spousal trust," as defined above, apply after February 11, 1991.

Interspousal transfers and loans of property 74.1(1), 74.2, 74.3, 74.5

If an individual (the transferor) transfers or lends property to a trust for the benefit of the transferor's spouse, the transferor, and not the trust while the transferor is alive, may have to report, for income tax purposes, the income or loss from the property and any taxable capital gain or allowable capital loss on the subsequent disposition of the property by the trust. In the case of loaned property, the above rule applies only if the property was lent to the trust after May 22, 1985, or if the property was lent before May 23, 1985, and the loan is outstanding after 1987. When the income is to be included in the income of the transferor, the trust has to file a T3 return and issue a T3 Supplementary reporting the income as that of the transferor.

The above rule does not apply if the property is sold to the trust at fair market value, or if loans bear a prescribed rate of interest, and the interest charged is actually paid not later than 30 days after the end of the taxation year. If this occurs, the income or loss from the property, and any taxable capital gains and allowable capital losses from the property would be income of the trust.

For more details, see Interpretation Bulletins IT-258R2, *Transfer of Property to a Spouse* and its Special Release, and IT-511, *Interspousal Transfers and Loans of Property made after May 22, 1985*. Interpretation Bulletin IT-511 contains a sample calculation to determine the amount to be included in the transferor's income.

Trust for a minor 104(18)

If a minor beneficiary of a testamentary or inter vivos trust has a vested interest in a trust, and that trust has accumulated income in a taxation year only because the beneficiary is a minor, the income will be considered to have been payable to the minor in the year, and will become taxable in the minor's hands. For more details, see Interpretation Bulletin IT-286R2, *Trusts — Amount Payable*.

Transfers and loans to a trust for a minor

74.1(2), 74.3, 74.5, 56(4.1)

When an individual transfers or lends property to a trust for the benefit of a beneficiary who is a minor, the income or loss from the property may be attributed to the transferor and taxed in the transferor's hands while the transferor is

resident in Canada. The transferor does not have to report the income or loss of the trust if the beneficiary has, before the end of the year, turned 18, or if the income is taxed in the trust.

A minor for this purpose is a person under the age of 18 who is either the niece or nephew of the transferor, or who is not dealing at arm's length with the transferor.

Loans to a trust for the benefit of a minor are subject to the same time periods described in the first paragraph under the heading, "Interspousal transfers and loans of property."

When the income is to be included in the income of the transferor, the trust must file a T3 return and issue a T3 Supplementary reporting the income as that of the transferor.

For more details, see Interpretation Bulletins IT-260R, *Transfer of Property to a Minor* and its Special Release, IT-510, *Transfers and Loans of Property Made After May 22, 1985 to a Related Minor*, and IT-286R2, *Trusts — Amount Payable*. Interpretation Bulletin IT-510 contains a sample calculation to determine the amount to be included in the transferor's income.

Unit trust 108(2)(a),(b)

A unit trust is an inter vivos trust that at any particular time the interest of each beneficiary in the trust is described by referring to units of the trust, and the trust satisfies the other conditions of paragraph 108(2)(a) or (b) of the *Income Tax Act*.

Mutual fund trust 132, Regulation 4801

A mutual fund trust is a unit trust that resides in Canada, and its only undertaking is the investing of its funds. Such a trust has to comply with the conditions prescribed under Income Tax Regulation 4801. Form T184 is available from your district office to help you calculate the capital gains refund for mutual fund trusts.

Communal organization 143

An inter vivos trust is considered to have been in existence on December 31, 1976 and continuously thereafter when a congregation:

- has members who live and work together;
- does not permit any of its members to own property in their own right;
- requires that its members devote their working lives to the activities of the congregation; and
- carries on one or more businesses, or manages or controls one or more corporations, trusts or other persons that carry on one or more businesses for the purpose of supporting or sustaining its members or the members of any other congregation.

A communal organization must file a T3 return and pay tax as though it were an inter vivos trust. However, it can elect to allocate its income to the beneficiaries. Information Circular 78-5R2, *Communal Organizations* deals with this subject in detail.

Employee benefit plans 6(1)(g), 12(1)(n.1), 32.1, 248(1)

An employee benefit plan is an arrangement under which contributions are made by an employer to fund benefits for employees or former employees. The employer may deduct contributions to the plan only when they are actually distributed to employees or to former employees, or to their

legal heirs or their representatives. At the same time, the recipient includes the amount actually received from the employee benefit plan in income. Amounts received by the employee or heirs are considered to be income from an office or employment, and are reported on a T4A Supplementary, not a T3 Supplementary.

When an employee benefit plan is a trust, the trust is taxed on its income under Part I. Contributions to the plan are not included in the trust's income, and distributions out of the plan are not deducted from income. The trust includes, in its income, the amount of income from the investment of trust property, and deducts expenses related to earning this investment income unless the income is paid to the employees or employer. To be recognized as an income beneficiary, the employer must have unrestricted right, title and use of the income allocated to the employer. A payment that is conditional upon its repayment to the trust is not accepted as a bona fide payment. This income will be taxed in the hands of the trust.

The trust must file a T3 return if the total of its income from all sources is more than \$500 in the taxation year. Attach a statement of amounts received and disbursed during the year, identifying by type both the revenue (e.g., contributions, investment income) and disbursements of the plan. Report payments out of or under an employee's benefit plan on the T4A Supplementary form.

For more information, see Interpretation Bulletin IT-502, *Employee Benefit Plans and Employee Trusts*, and its Special Release.

When an employer makes contributions for an employee's retirement, termination of employment or for any substantial change in the services of an employee, the plan is likely a Retirement Compensation Arrangement (RCA). If the plan existed on October 8, 1986, the RCA rules will apply on January 1, 1988, or on the day after October 8, 1986 on which the existing arrangement was materially altered, whichever date is earlier. Grandfathering provisions apply to plans that existed on October 8, 1986 that allow employee benefit plan rules, where applicable, to apply to that portion of plan funding in place before the RCA rules became effective. File a *T3 Trust Income Tax Return and Information Return* for the employee benefit portion, and a *T3-RCA Part XI.3 Tax Return* for the RCA. See the *Retirement Compensation Arrangement Guide* for more details.

A salary deferral arrangement is an arrangement under which a person has a right to receive salary or wages in a year after the services have been rendered. One of the main purposes of the arrangement is to postpone any tax payable for services rendered. The amount of deferred salary or wages is included in the employee's income in the year the services are rendered. The employee is taxed on any income earned by the salary deferral arrangement on the amount deferred in the year the income is earned. An agreement made in writing before February 26, 1986 continues to be treated as an employee benefit plan:

- when contributions are for services rendered before July 1986; or
- when contributions are for services rendered after June 1986 if the employee is bound under contract to defer receiving that income.

Salary deferral arrangements and their exclusions are described in subsection 248(1) of the *Income Tax Act*.

Segregated fund trust 138.1

Segregated funds of life insurers for life insurance policies are considered to be inter vivos trusts and are referred to as "related segregated fund trusts." Basically, the property and income of a segregated fund is considered to be the property and income of such a trust, and the life insurer is the trustee of the related segregated fund trust.

File a separate T3 return and financial statements for each segregated fund.

Non-profit organizations 122(1), 149(1)(1), 149(5)

If a non-profit organization such as a club, society or association is organized and operated exclusively for social welfare, civic improvement, pleasure, recreation or for any other purpose except profit, it will be exempt from tax and generally would not have to file a return if no part of the income is payable to, or available for, the personal benefit of a proprietor, member or shareholder.

However, if the main purpose of the club, society or association is to provide dining, recreational or sporting facilities to its members, an inter vivos trust is considered to have been created. The non-profit organization will then be subject to tax on its income from property.

The non-profit organization must file a T3 return when its gross or total income from property such as interest income, rental income or other investment income is more than \$500 for the calendar year. The trust may deduct \$2,000 from its taxable income. Tax is payable by the trust upon its taxable income for each year using the 29% federal income tax rate that applies to inter vivos trusts. Further details on the taxation of these organizations are contained in Interpretation Bulletin IT-83R3, *Non-profit Organizations — Taxation of Income from Property*.

Employee trust 6(1)(h), 104(6), 248(1)

In general, an employee trust is an arrangement established after 1979 under which payments are made by an employer to a trustee in trust for the sole benefit of the employees. The trustee has to elect to qualify the arrangement as an

employee trust in the trust's initial return of income which must be filed within 90 days from the end of the trust's first taxation year. Contributions by the employer to the plan may be deducted by the employer only if this election has been made. To maintain its employee trust status, each year the trust must allocate to its beneficiaries all non-business income for that year, including employer contributions.

Business income is excluded from the allocation and is taxed in the trust. The amounts allocated are taxed in the beneficiaries' hands in the year of allocation as income from employment. Report this income on a T4A Supplementary, not on a T3 Supplementary. Complete Trust Schedule 9, *Summary of Income Allocations/Designations to Beneficiaries*, or an equivalent statement of allocation, and include it with the T3 return. See Interpretation Bulletin IT-502, *Employee Benefit Plans and Employee Trusts* and its Special Release for more details.

Investment clubs

We allow an investment club that is not a partnership, trust or corporation to elect to be treated as a partnership (referred to as a "modified partnership") to facilitate the determination and reporting of income for each member. For fiscal periods ending after December 31, 1990, an investment club which elects to be treated as a "modified partnership" must file a *Partnership Information Return* instead of a T3 return. For details, see the 1991 *Guide to the Partnership Information Return* and Information Circular 73-13, *Investment Clubs* and its related Special Release.

Personal trust 248(1)

A personal trust can be either:

- a testamentary trust; or
- an inter vivos trust in which no beneficial interest was acquired for consideration payable either to the trust, or to a person who contributed to the trust.

The individuals and related individuals who create the trust may keep an interest in the trust without the trust losing its status as a personal trust. Any trust that does not meet the above definition is considered to be a "commercial trust."

Completing the T3 return

Page 1 Identification area

Refer to the following guidelines when completing this area of the return:

- Complete all items in the "Identification area."
- **Name of trust** — Be sure to use the same name on all returns and correspondence for the trust.
- **Account number** — If an account number has been assigned to the trust, enter it in this space. Include this number on all correspondence related to the trust. If this is the first return filed, we will issue an account number to the trust shortly after we receive the return.
- We use the information regarding the residence of the trust and type of trust to determine the correct rate of tax. It is very important that you complete each item fully and correctly.

- **Non-profit organization** — If the non-profit organization is incorporated, enter the corporation account number assigned by us.

Question 1

This question must be answered by all trusts (other than mutual and segregated fund trusts). If the trust is one of a number of trusts created from contributions made by the same individual, submit a list showing the name and address of each trust, and the share of the basic exemption from minimum tax allocated to each trust within the current taxation year (see *Trust Schedule 12, line 1226*). This list must be signed by the legal representatives of each trust.

Question 2

The sale of an income or capital interest in a trust constitutes a change in ownership. For the purpose of this question, distributing estate property to beneficiaries is not considered to be a change in ownership.

Question 6

See Interpretation Bulletin IT-406R2, *Tax Payable by an Inter Vivos Trust* for information about debts incurred in non-arm's length transactions.

Question 8

The terms of the will, trust document, or court order determine the requirement to allocate income.

Question 9

See guide item "Designated income to be taxed in trust 104(13.1) 104(13.2)," for more details. Designations under subsections 104(13.1) and 104(13.2) may be made only at the time the T3 return is filed. **After the return is filed, designations under subsections 104(13.1) and 104(13.2) may not be made, withdrawn or changed.**

Page 2**Income — Lines 01 to 19****Line 01****Taxable capital gains**

3, 38, 39, 40(1), 110.6, 111, 138.1(3)

Calculate the taxable capital gains and allowable capital losses of the trust on Trust Schedule 1. If the amount calculated on line 122 of this schedule is a taxable capital gain, enter the amount on line 01.

When a trust's allowable capital losses (except allowable business investment losses as described under line 25) exceed the trust's taxable capital gains, the excess can neither be deducted against other income of the trust in 1991 nor allocated to the beneficiaries (except as described under guide item "Allocation or designation of losses"). The excess becomes a "net capital loss" for 1991 which may be applied against the amount of taxable capital gains clear of allowable capital losses of other years. See lines 51 and 52 for more information on losses.

Note that in the first taxation year of a testamentary trust, the legal representative may elect to apply an excess of capital losses over capital gains against income of the deceased on the T1 return for the year of death. See guide item, "Testamentary trust — 164(6) election."

Line 02**Pension income 56(1)(a)(i), 147(10)**

The amount to be entered on this line includes items such as a single payment out of a pension fund or deferred profit sharing plan, or annuity payments out of a superannuation or pension plan.

Pending legislation — Tabled May 30, 1991

Include any payment received after July 13, 1990 out of a foreign retirement arrangement. (Foreign retirement arrangements are presently intended to refer to certain amounts received from Individual Retirement Accounts (IRA), as outlined in subsections 408(a) and (b) of the United States Internal Revenue Code.)

Lump-sum payments ITAR 40(1), (5) and (7)

Certain lump-sum payments (accrued to December 31, 1971) received by a trust from a pension fund or a deferred profit

sharing plan may, if the trust so chooses, be taxed in the trust at a reduced rate. If income remains in the trust, and ITAR 40 provisions will be applied, do not include the amount on line 02. Instead, write ITAR 40 on line 02 and on Trust Schedule 11, line 1109, and we will calculate the tax adjustment for you. Information Circular 74-21R, *Payments out of Pension and Deferred Profit Sharing Plans — ITAR 40*, and Interpretation Bulletin IT-281R2, *Elections on Single Payments from a Deferred Profit Sharing Plan*, deal with this subject in more detail. Include these lump-sum amounts on line 02 if the trust income is being allocated to beneficiaries. Attach any information slips received.

Line 03**Actual amount of dividends 82**

The actual amount of taxable dividends received from taxable Canadian corporations is reported here and on Trust Schedule 8, Part A, line 805. Attach any information slips received.

Line 04**Foreign investment income***

Include on this line, all interest and other investment income from foreign sources. Report foreign income in Canadian funds. Trust Schedule 8, Part A, line 808 provides space to list the foreign investment income reported on line 04.

Line 05**Other investment income***

On line 05, enter the amount from Trust Schedule 8, Part A, line 815.

On this line, include all interest and investment income from Canadian sources except the dividends from taxable Canadian corporations reported on line 03. Attach any information slips received.

Notes *

Interest credited to the trust's account by a financial institution is considered to have been received by the trust.

In the first year of a testamentary trust, the interest income which has accrued to the person's date of death is reported on the deceased taxpayer's final T1 return. It should not be included in income received and reported by the trust.

**Line 06 (net), line 96 (gross)
Business income**

Enter net business income on line 06. If a trust is carrying on a business other than farming or fishing, it must use the accrual method to determine its net business income. Attach a separate profit and loss statement (such as Form T2124) and a balance sheet for each business carried on by the trust. For more information, see the 1991 *Business and Professional Income Tax Guide*.

**Line 07 (net), line 97 (gross)
Farming income**

**Line 08 (net), line 98 (gross)
Fishing income 119**

A trust that has income from farming or fishing may use either the cash or accrual method to determine income from these sources for the taxation year. Attach a statement of income and expenses to the return. The 1991 *Farming Income Tax Guide* and the 1991 *Fishing Income Tax Guide* contain blank statements (Forms T2042 and T2121, respectively) to help you determine farming and fishing income. Farming and fishing income retain their identity when allocated to resident beneficiaries or to members of a communal organization for an election under the block averaging provisions. Report farming or fishing income, paid or payable to a beneficiary in box 27 of the T3 Supplementary.

**Line 09 (net), line 99 (gross)
Real estate rental income**

On line 09, enter the net income from real estate rentals. Enter the gross rental income on line 99. In the case of a partnership, report the trust's share of the net rental income on line 09, and the total rental income of the partnership on line 99.

Attach a statement of real estate rentals (such as Form T776) to your return. To obtain a copy of the statement, and for additional information, see the 1991 *Rental Income Tax Guide*.

If the trust acquired property by gift, bequest or inheritance, and it is claiming capital cost allowance on Form T776, refer to Appendix A in this guide for some special rules concerning the cost of the property to the trust ("Cost of additions of depreciable assets").

**Line 19
Other income**

Under "Other income" report the total of any type of income received in the taxation year that is not itemized on the T3 return or trust schedules such as:

- royalties;
- commissions;
- foreign business income;
- any death benefits under the Canada or Quebec Pension Plans;
- retiring allowances (unless this amount is reported in the retired person's income for year of death as a "right or thing," or by a beneficiary; for more details, see the current version of Interpretation Bulletin IT-337, *Retiring Allowances*);
- certain employment related income (see Appendix B for details).

Death benefit 248(1)

If the trust receives an amount for a deceased person's employment service, and the income is to be taxed in the trust according to the provisions of the trust document, the

trust may be able to exclude up to \$10,000 of the amount from income. For more information on the payments that qualify for the \$10,000 deduction, and to determine the taxable portion to be reported on line 19, see Interpretation Bulletins IT-301, *Death Benefits — Qualifying Payments* and IT-508, *Death Benefits — Calculation*. Any amount of the death benefit excluded from the trust's income on line 19 will reduce the amount of death benefit that may be designated to the beneficiaries. See Trust Schedule 9, line 935.

Registered Retirement Savings Plans (RRSP)

Income earned in an RRSP in a year beyond the year of death should be reported by the plan issuer on a T3R-IND. If a testamentary trust is the beneficiary of the RRSP, the trust would include in "Other income" on line 19, its income from the plan. Please note that benefits that accrued to the date of death must be reported on the final T1 return of the deceased, or in some circumstances, on the T1 return of the spouse or a dependent child or grandchild. For more details, see the current version of Interpretation Bulletin IT-500, *Registered Retirement Savings Plans (maturing after June 29, 1978) Death of an Annuitant after June 29, 1978*.

Deductions — Lines 21 to 40

**Line 21
Carrying charges**

18(1)(a), 20(1)(c), 20(1)(bb)

On line 21, enter the total from Trust Schedule 8, Part A, line 820.

Carrying charges paid to third parties include interest on money borrowed to earn investment income, fees paid for the management or safe custody of the investment, safety deposit box charges, accounting fees paid for the recording of investment income, and investment counsel fees paid. Do not include as a carrying charge brokerage fees incurred to purchase and sell securities. Brokerage fees are part of the cost of a security if they are incurred when purchasing the security, or they may be claimed as "Outlays and expenses" on Trust Schedule 1, if they are incurred when selling the security.

The trust can deduct interest expense on a life insurance policy loan used to earn income, provided the interest expense is not added to the adjusted cost base of the policy. If a trust is claiming interest paid on a policy loan during the year, the insurer has to complete Form T2210, *Verification of Policy Loan Interest by the Insurer*, no later than 90 days after the trust's year-end.

**Line 24
Trustee fees 9(1), 20(1)(bb)**

The trust may deduct executor and trustee fees from its income if the fees are paid to a person for giving advice on purchasing or selling, or for administering or managing shares or securities. Also that person's principal business must either consist of giving advice to others on how to purchase or sell shares or securities, or provide administration or management services for shares or securities. For more details, see Interpretation Bulletin IT-238R2, *Fees Paid to Investment Counsel*.

In addition to the above outlays, the trust may deduct executor and trustee fees when computing its business or property income, provided the expense was incurred for the purpose of gaining or producing this income. Such fees may not be deducted again at this line. Trustee fees for looking after real property (e.g., residence) used by a life beneficiary of a testamentary trust are not fees incurred for the purpose of earning business or property income, and may not be deducted when computing the income of the trust.

Executor fees are considered to be income from an office, if they are paid to an individual who does not act in this capacity in the normal course of business. Report these fees on a T4 Supplementary, if they amount to \$500 or more. If the fees are paid to a non-resident of Canada for services performed in Canada, report them on a T4A-NR Supplementary. For more details, see the *Employers' Guide to Payroll Deductions*, and Interpretation Bulletin IT-377R, *Director's, Executor's, and Juror's Fees*.

Line 25 Allowable business investment losses 39(1)(c), 39(10), 50(1), 104(21.2)

The trust may have a business investment loss if it has a capital loss:

- from disposing of shares or debt of a small business corporation to a person with whom the trust deals at arm's length; or
- from a bad debt owed to the trust by a small business corporation.

When determining the allowable portion that may be claimed, the business investment loss of a trust may be subject to a **reduction**. If, in a previous year, the trust designated part or all of its "Eligible taxable capital gains" (Trust Schedule 3) to a beneficiary of the trust, the trust's business investment loss for the current year is reduced by the lesser of:

- the trust's business investment loss for the year otherwise determined; and
- the total of:
 - two times (2) the eligible taxable capital gains amounts designated by the trust for the taxation years ending in 1985, 1986 and 1987;
 - one and one-half (3/2) times the eligible taxable capital gains amounts designated by the trust for the taxation years ending in 1988 and 1989; and
 - 1.33 (4/3) times the eligible taxable capital gains amounts designated by the trust for taxation years ending in 1990 and subsequent years;

minus

 - the total of any reductions to a business investment loss made in previous years.

The current year reduction is then treated as a capital loss rather than as a business investment loss. Enter the amount of the reduction on Trust Schedule 1, line 113.

Three quarters (3/4) of the remaining business investment loss incurred in a taxation year ending after 1989 represents

an **allowable** business investment loss which can be deducted from all sources of income in the year. Report an allowable business investment loss on line 25.

Any allowable business investment loss not deducted when computing income in the 1991 taxation year is included in the non-capital loss of the trust for the 1991 taxation year, and can be deducted when computing the taxable incomes of other taxation years. The non-capital loss for the 1991 taxation year can be deducted from the taxable incomes for the three preceding taxation years, or for the seven taxation years immediately following. Any undeducted balance of this non-capital loss remaining after seven taxation years is then included in the net capital loss computation. For more details, obtain the 1991 *Capital Gains Tax Guide* and Interpretation Bulletin IT-484R, *Business Investment Losses*.

Line 40 Other deductions from total income 9(1), 18(1)(a) and (b), 18(2), 18(1)(h), 20(1)(v.1), 53

Other deductions could include legal and accounting fees. Claim only those amounts that were spent to earn income of the trust. Do not claim outlays and expenses that pertain to the capital assets of the trust, or personal expenses of the beneficiaries or trustees. Funeral expenses or probate fees, for example, are not allowable deductions from income.

Resource allowance 20(1)(v.1), Regulation 1210, 1206(1)

A trust that reports "resource profits" may claim, on this line, a resource allowance of up to 25% of its resource profits (as determined under *Regulation* 1204 and 1210). Generally, the resource profits of a trust would be earned as "production royalties," i.e., royalties based on the amount or value of oil and gas production, and on which the recipient pays non-deductible crown charges. If a resource allowance is being claimed, include a copy of your calculations as well as documentation, such as a T5 slip or a statement from the payor, to verify that the income qualifies for the resource allowance. Since resource profits lose their identity when allocated to a beneficiary, a beneficiary may not claim a resource allowance on income allocated from a trust.

Deductions must be related to sources of income

Please note that expenses of a trust must be deducted before any income can be allocated to the beneficiaries. The expenses are applied directly to the income to which they relate. Those that relate to more than one source of income should be apportioned on a reasonable basis to the applicable sources of income of the trust. Complete Trust Schedule 9, Part A to show how expenses apply against specific types of income.

Charitable donations 104(6), 118.1, 143(3.1)

If the trust made charitable donations, refer to guide item "Schedule 11, line 1112" to determine whether the donations may be deducted as an allocation of trust income (on Trust Schedule 9, line 926) or as a non-refundable tax credit on Schedule 11, line 1112.

Taxable benefits — Lines 43 to 45

Line 43

Upkeep, maintenance, taxes of any property used or occupied by any beneficiary 105(2)

If the terms of the trust require the trust to pay for the upkeep, maintenance or taxes on property used or occupied by a beneficiary, the amounts paid by the trust must be included in that beneficiary's income in the year they are paid, i.e., reported on the beneficiary's T3 Supplementary. Only those amounts that have been included in the expenses of the trust (whether on a financial statement or on line 40) should be entered on this line. Give details of the amounts entered on this line including the nature and amount of payment, and identify the financial statement or line on the T3 return where you have claimed the expenses.

Line 44

Value of other benefits to recipients 105(1)

The value of other benefits from a trust not otherwise included in a person's income must be shown on this line (e.g., amounts paid for the beneficiary's personal or living expenses). These benefits must be included on the T3 Supplementary form and reported as income by the beneficiary. The benefits reported here may not be deducted from the income of the trust. Therefore, they are added here to offset the income allocations or designations amount on Schedule 9, line 928, and deducted on line 47 of the T3 return. Please provide details, including the nature of the benefits, for any amounts entered on this line.

Line 47

Total income allocations/designations to beneficiaries

On line 47, enter the total amount of trust income allocated or designated to beneficiaries from Trust Schedule 9, line 928. Complete Trust Schedule 9 and Supplementary forms (T3, T4A, NR4B, if they apply) if an amount is entered here.

Line 49

Gross-up amount of dividends retained by the trust

Enter on line 49, the amount from Trust Schedule 8, Part B, line 824. This amount reflects the gross-up of dividends retained by the trust.

Page 3

Additional information required

Please answer all questions and attach any necessary schedules or statements.

Question 10

If yes, refer to guide item, "Preferred beneficiary election." This preferred beneficiary election must be made and filed with us **within 90 days** from the end of the trust's taxation year.

Question 14

If estate assets have been distributed to one or more beneficiaries, attach a statement and include the following information:

- name and address of the recipient(s);
- description of assets transferred;
- fair market value of the assets on the day they are transferred;
- cost amount of the assets on the day they are transferred.

Question 15

If the answer is yes, the election must be filed to amend the deceased taxpayer's T1 return for the year of death. See guide item, "Testamentary trust — 164(6) election," for more details.

Page 4

Calculation of taxable income of trust

Lines 50 to 56

Line 51

Non-capital losses of other years

111(1)(a), 111(8)(b)

A non-capital loss could arise if the trust had a loss from business or property in a year, and the loss was more than the trust's income from all sources in that year. The unused portion of a non-capital loss incurred in 1983 and subsequent years may be carried forward seven years and back three years.

The amount to claim on line 51 on a current-year T3 return is the unused portion of a non-capital loss carried forward from a previous year.

If the trust has an unused non-capital loss to carry back to a previous year, complete new Form T3A, *Request for Loss Carry-back by a Trust*. See guide item, "Loss applications."

When claiming a non-capital loss carried forward from a previous year, please enclose a continuity statement of any non-capital loss balances, grouping them as follows:

- before 1986 (taxation years commencing in 1985 and earlier); **and**
- after 1985 (taxation years commencing in 1986 or later).

Farming and fishing losses

The trust may carry back three years and forward 10 years, non-capital losses from farming and fishing. For more details on farming or fishing, obtain the 1991 *Farming Income Tax Guide* or the 1991 *Fishing Income Tax Guide*. Note that there are restrictions on the amount of certain farm losses that may be claimed each year.

The trust may deduct non-capital losses of other years only if there is net income remaining in the trust after allocations and designations have been made to beneficiaries (line 48 on page 2 of the T3 return).

Line 52**Net capital losses of other years**

3, 38, 39, 111(1)(b), 111(8)(a), 104(21)

If allowable capital losses are more than taxable capital gains in a year, the excess becomes a net capital loss for that year. The trust may carry net capital losses back three years and forward until they are fully applied. In most cases, the trust can only claim these against taxable capital gains of other years.

Within certain limits (see "Loss applications"), all or a portion of the net capital losses of other years that have not been applied in a previous year may be deducted in the 1991 taxation year as follows:

- net capital losses occurring before May 23, 1985:
 - from any net taxable capital gains realized in the 1991 taxation year;
 - the balance, if any, up to \$2,000 from other sources of income; **and**
- net capital losses occurring after May 22, 1985:
 - from any net taxable capital gains realized in the 1991 taxation year.

The inclusion rate for calculating the taxable portion of capital gains and the allowable portion of capital losses increased from:

- 1/2 (for taxation years and fiscal periods ending in 1987 and earlier);
- to 2/3 (for taxation years and fiscal periods ending in 1988 and 1989); **and**
- to 3/4 for taxation years and fiscal periods ending in 1990 and subsequent years.

If a net capital loss is to be applied to a taxable capital gain in a year when the taxable capital gain has been calculated at a different rate, the net capital loss amount must be adjusted to match the inclusion rate of the year to which it is being applied. Use new Form T3A, Area III, *Net Capital Loss for Carry-back*, to make this adjustment.

Pending legislation — Tabled May 30, 1991, effective for 1985 and subsequent taxation years

An adjustment is not allowed for the \$2,000 amount referred to above, applied against other sources of income.

When claiming a net capital loss carried forward from a previous year, please enclose a continuity statement of net capital loss balances grouping them as follows:

- before May 23, 1985;
- from May 23, 1985 to the year-end of the trust (taxation years commencing in 1984 and 1985);
- taxation year commencing in 1986 or 1987 and ending before 1988;
- taxation years ending in 1988 and 1989; **and**
- taxation years ending after 1989.

Be sure to show the year the loss was incurred, the amounts applied in previous years, and the balance remaining at the beginning of the year.

See the 1991 *Capital Gains Tax Guide* for more details on "net capital losses of other years."

Listed personal property losses

Losses on listed personal property (LPP) may be applied only against an LPP gain. If the unused portion of an LPP loss from another year is applied against a current year LPP gain, the claim is made on Trust Schedule 1, line 108. See guide item, "Listed personal property."

Loss applications

Requests for a loss carryback to a previous year must be made on or before the due date of the T3 return for the year in which the loss has occurred. To make a request, use new Form T3A, *Request for Loss Carry-back by a Trust*. This form may be filed separately or attached to the current year T3 return.

If the losses are not fully absorbed by incomes of the previous years, keep a copy of the T3A form as a record of unused losses for future years. Always apply the oldest loss within a class of losses first (e.g., 1986 non-capital losses should be applied before 1987 non-capital losses).

If all or a part of the previous year's income was allocated to beneficiaries, a **non-capital** loss carryback cannot reduce the income allocated to beneficiaries.

If **part** of the previous year's income remained in the trust, a **net** capital loss carryback may reduce taxable capital gains designated to a beneficiary. The reduction cannot be more than the taxable capital gains designated. No reduction of the amounts previously designated can be made if a preferred beneficiary election has been made for the net taxable capital gains, or if the trust document provides that all of the income, including capital gains, has to be designated.

For more details, see Interpretation Bulletin IT-381R, *Trusts — Deduction of Amounts Paid or Payable to Beneficiaries and Flow-Through of Taxable Capital Gains to Beneficiaries*.

Line 53**Capital gains deduction for resident spouse trust only 110.6(12)**

A post-1971 spousal trust (if resident in Canada) when computing its taxable income in the year in which the beneficiary spouse dies, may claim the unused portion of the beneficiary spouse's capital gains deduction. The deduction is based on the premise that the spouse trust should be able to claim a capital gains deduction to the extent the spouse would have claimed a deduction if the eligible taxable capital gains of the trust had been realized by the spouse directly. To calculate the deduction, complete Trust Schedule 5. Attach it to the T3 return. The amount on line 525 of this schedule is claimed on line 53 of the return.

Line 54**Other deductions to arrive at taxable income**

On line 54, you may claim losses such as limited partnership losses and farm losses. The \$2,000 deduction allowed to a non-profit organization reporting income from property should be claimed on this line. If the trust has reported in its income, foreign income that is exempt from

tax in Canada because of a tax convention, you may deduct the exempt amount on this line. If you are claiming more than one loss, or if a claim needs more explanation, attach a note to the T3 return giving the details.

Line 56 **Taxable income of trust**

The total on line 55, subtracted from line 50, is the taxable income of the trust. If the result is negative, enter zero. If line 56 is greater than zero, enter the amount on Trust Schedule 11, line 1101 (testamentary trusts) or line 1107 (inter vivos trusts).

If the amount on line 56 was calculated to be zero, or less, enter zero (or the negative amount) on Trust Schedule 12, line 1221. Even if the amount on line 56 is zero, or less, the trust (other than a mutual or segregated fund trust) may have minimum tax. See "Trust Schedule 12, *Calculation of Minimum Tax.*"

Summary of tax and credits — Lines 81 to 91

Lines 85 to 90 **Credits**

Record on the respective line, each credit referred to on lines 85 to 90.

Line 86 **Total tax deducted per information slips**

If the trust earned income from which tax was deducted at source, enter the amount of tax deducted on this line. If an information slip is not available, attach a statement from the issuer to verify the income reported and tax withheld. Do not allocate tax deducted at source to beneficiaries.

Line 89 **Capital gains refund**

If a mutual fund trust is claiming a capital gains refund, enter the amount on this line.

For taxation years before 1991, the Alberta royalty tax credit was claimed on line 89. For 1991 and subsequent taxation years, this program, now called the Alberta royalty credit, must be claimed directly from the Alberta Treasury, Corporate Tax Administration. Provincial forms are available for this purpose. For details, see guide item "Line 1444."

Line 90 **Part XII.2 tax credit**

A trust would claim a Part XII.2 tax credit on this line if it is the beneficiary of another trust from whom it has received a T3 Supplementary. Enter the amount from box 38 on the T3 Supplementary.

Line 93 **Amount enclosed**

So that payments are credited to the proper account, please make sure that every cheque (or statement attached to it) bears the trust's name and account number (if we have assigned one to the trust).

Certification area

Name of person or company (other than trustee/executor/administrator) who prepared this return

Complete this box in full if the return was prepared by someone other than the trustee, executor or administrator.

Certification

The trustee, executor or administrator of the trust must complete and sign this box.

Trust schedules

Trust Schedule 1 **Lines 101 to 122** **Summary of Dispositions of Capital Property**

Capital gains 3, 38, 39, 40

Complete Trust Schedule 1 and file it with the T3 return if the trust had dispositions, or deemed dispositions, of capital property during the year.

A disposition of capital property includes a sale, the distribution or exchange of property, the making of a gift, a redemption of shares, a debt settlement, a theft, or the destruction of a property.

The taxable portion of a capital gain and allowable portion of a capital loss is 75% (3/4) for 1990 and subsequent years.

The general rules to follow when reporting a capital gain or loss depend on the type of asset disposed of, or considered to be disposed of. For more details on capital gains or losses, obtain the 1991 *Capital Gains Tax Guide*. You may also wish to obtain Information Circular 74-3R2, *Supplementary Schedules for Calculating Capital Gains and Losses*, which lists a number of other schedules that are available to help you calculate capital gains and losses.

Testamentary trust — 164(6) election **Regulation 1000**

If, in the course of administering the estate of a deceased taxpayer, the legal representative has, within the first taxation year of the estate:

- disposed of capital property of the estate that resulted in an excess of capital losses over capital gains; or

- disposed of all the depreciable property of a prescribed class of the estate that resulted in a terminal loss in that class at the end of the first taxation year of the estate;

the legal representative may elect to transfer such losses to the T1 return of the deceased taxpayer for the year of death.

The elected amount of terminal loss cannot be more than the trust's combined non-capital loss and farm loss, computed before the election was made. The trust cannot claim losses that are transferred to the deceased under an election. Any portion of the losses not transferred are subject to the normal loss provisions available to the trust.

Regulation 1000 describes the prescribed manner and prescribed time in which the election should be made. The legal representative must file this election and an amended T1 return for the deceased taxpayer for the year of death by either:

- the last day the legal representative is required, or has elected, to file a T1 return for the year of death; or
- the day the estate's T3 return must be filed for its first taxation year;

whichever date is later.

The election and the amended return do not affect the return of the deceased taxpayer for any year before the year of death.

Note

Clearly identify the amended T1 return as "164(6) election."

Distribution of property to beneficiaries 107(2)

If a personal trust distributes property to a beneficiary (to settle in whole or in part the beneficiary's capital interest in the trust) the trust is considered to receive proceeds of disposition equal to the "cost amount" of the property. If the property is depreciable property, the cost amount is its undepreciated capital cost. For other capital property, the cost amount is generally its adjusted cost base. Attach to the T3 return a statement giving particulars of all dispositions to a beneficiary within the taxation year.

Pending legislation — From February 11, 1991 draft income tax legislation, effective after February 11, 1991

If, after January 1, 1993, the trust files a T1015 election (discussed below) to postpone a deemed disposition of its property, only property distributed to "exempt beneficiaries" may be rolled over at cost. If property is distributed to non-exempt beneficiaries following an election, the proceeds to the trust and cost to the beneficiary will be the fair market value of the property.

Deemed disposition — 21-year rule 104(4), 104(5)

On specified dates, during the life of a trust, a trust is deemed to have disposed of its capital property, land

inventory, and Canadian and foreign resource properties, and is required to report the resulting gains or losses.

On these specified dates, a trust is considered to have disposed of its non-depreciable capital property at fair market value, and to have reacquired it immediately thereafter at a cost equal to the same fair market value. The trust must report, on Trust Schedule 1, the capital gains or losses arising from these deemed dispositions, in the taxation year in which they are considered to have occurred.

Depreciable property of a prescribed class is considered to be disposed of at the same specified date, at a value which is the average between the fair market value, at the time of the deemed disposition of all the property in the class, and the undepreciated capital cost of the class to the trust. Note that in the case of depreciable property, you must report both capital gains and recapture of capital cost allowance.

If on June 18, 1971 and continuously thereafter the property was owned by the trust or by another person from whom the trust subsequently acquired the property in a non-arm's length transaction, see the following Interpretation Bulletins for more information related to the deemed cost of the property: IT-370, *Trusts — Capital Property Owned on December 31, 1971*, and IT-132R2, *Capital Property Owned on December 31, 1971 — Non-Arm's Length Transactions*.

Exemption from the 21-year rule 108(1)(j)

The following trusts are **excluded** from the "21-year deemed realization" rules:

- a unit trust;
- trusts governed by
 - a registered pension fund or plan;
 - an employees profit sharing plan;
 - a registered supplementary unemployment benefit plan;
 - a registered retirement savings plan;
 - a deferred profit sharing plan;
 - a registered education savings plan;
 - a registered retirement income fund;
 - an employee benefit plan or an employee trust;
- a master trust;
- a related segregated fund trust;
- a communal organization;
- an RCA trust.

Pending legislation — From February 11, 1991 draft income tax legislation, effective after February 11, 1991 unless otherwise noted

Deemed realization day 104(4)

The deemed realization day is the day on which the trust is considered to have disposed of its capital property. We have provided the following table to help you determine the deemed realization day for your trust.

Description of trust	Deemed realization day
Testamentary spousal trust Trust was created before 1972, and the beneficiary spouse died after December 31, 1971 but before January 1, 1976, or after 1992.	The day the beneficiary spouse dies.
Trust was created before 1972, and the beneficiary spouse died after December 31, 1975 but before 1993.	January 1, 1993.
Trust was created after December 31, 1971.	The day the beneficiary spouse dies.
Inter vivos spousal trust Trust was created before June 18, 1971, and the beneficiary spouse died after December 31, 1971 but before May 26, 1976, or after 1992.	The day the beneficiary spouse dies.
Trust was created before June 18, 1971, which met the grandfathering provisions (S.S. 122(2), see guide, Line 1101), and the beneficiary spouse died after May 25, 1976 but before 1993.	January 1, 1993.
Trust was created before June 18, 1971, which did not meet the grandfathering provisions, and the beneficiary spouse died after May 25, 1976 but before February 12, 1991.	The day the beneficiary spouse dies.
Trust was created before June 18, 1971, which did not meet the grandfathering provisions and the beneficiary spouse died after February 11, 1991 but before 1993.	January 1, 1993.
Trust was created after June 17, 1971.	The day the beneficiary spouse dies.
Other trusts	21 years after either January 1, 1972, or the day on which the trust was created, whichever date is later.

Generally, after 1992, these deemed realization days can be summarized as follows:

- for a pre-1972 spousal trust on January 1, 1993:
 - the day on which the beneficiary spouse dies or January 1, 1993, whichever date is later.
- for a post-1971 spousal trust:
 - the day on which the beneficiary spouse dies.
- for other trusts:
 - 21 years after the trust was created or January 1, 1993, whichever date is later.

Subsequent deemed dispositions will occur every 21 years on the anniversary of the day established above. See "Types of trusts" in this guide for definitions of pre-1972 and post-1971 spousal trusts.

Before the proposed changes, the deemed realization days were broken down as follows:

For a **spouse trust**, the disposition was considered to occur on the death of the beneficiary spouse and every 21 years thereafter, in the following cases:

- Testamentary spouse trust:
 - when the beneficiary spouse died after December 31, 1971 but before January 1, 1976;
 - when the beneficiary spouse died after December 31, 1975, and the trust was created after December 31, 1971.
- Inter vivos spouse trust:
 - when the beneficiary spouse died before May 26, 1976;
 - when the beneficiary spouse died after May 25, 1976, and the trust was created after June 17, 1971, or the trust was created before June 18, 1971 and it did not meet the grandfathering provisions. *

For **other trusts**, the disposition was considered to occur on the day that was 21 years after January 1, 1972, or the date the trust was created, whichever date was later, and every 21 years thereafter.

* The grandfathering provisions are described in this guide, under "Trust Schedule 11, line 1101."

A foreign retirement arrangement is added to the list of trusts excluded from the "21-year deemed realization rule."

For 1993 and subsequent years, the trust may elect to pay the income tax arising from the deemed realization rule in up to 10 annual instalments. Make the election on new form (number not yet available) and file the form at the district office no later than the day on which the T3 return is due for the taxation year in which the deemed disposition occurs. Interest at the prescribed rate will apply. To make security arrangements, and for more details on this election to defer payment of tax, contact the Collections Section of your district office.

Election by a trust to defer the deemed realization day (Form T1015) 104(5.3)

The trust may **elect** to postpone the deemed realization day **if** at least one living beneficiary of the trust qualified as an "exempt beneficiary" at the end of the taxation year in which the deemed disposition would occur.

Make the election, on Form T1015, and file the form within six months after the end of the taxation year in which the deemed realization would otherwise occur.

This election is not available to a post-1971 spousal trust when the beneficiary spouse dies. It may be used to postpone subsequent deemed dispositions occurring on the twenty-first anniversary of the beneficiary spouse's death.

The effects of this election are:

- The deemed realization day is postponed to the first full day on which the trust does not have an exempt beneficiary. This would be the day following the death of the last exempt beneficiary.
- When trust property is subsequently distributed to any beneficiaries who are not exempt beneficiaries, the proceeds to the trust and the cost to the non-exempt beneficiaries will be the fair market value of the property.

- A disposition will occur if legal ownership of the property changes, even if beneficial ownership does not change.

Exempt beneficiary 104(5.4)

An exempt beneficiary is an individual who is alive and is a beneficiary of the trust. The individual must be:

1. the "designated contributor" of the trust, or the designated contributor's spouse or former spouse;
2. the grandparent, parent, brother, sister, child, niece, or nephew of the designated contributor, or of the designated contributor's spouse or former spouse; or
3. the spouse or former spouse of a person named in 2 above.

Designated contributor 104(5.5)

A designated contributor is:

For a testamentary trust — the person whose death created the trust.

For an inter vivos trust — a qualifying individual designated by the trust on the T1015 election.

An individual qualifies as a designated contributor of an inter vivos trust, if during the period **beginning** one year after the day the trust was created and **ending** on the deemed realization day (if the election had not been filed), the property of the trust consisted primarily of:

- property transferred or loaned to the trust by the individual, **or** by the individual and one or more individuals born after, and related to that individual, if no one individual would otherwise qualify as a designated contributor;
- property substituted for the above;
- property attributable to profits or gains on the above; or
- any combination of the above;

or

- shares of the capital stock of a corporation controlled, at the time the trust was created, by the individual, **or** by the individual and one or more individuals born after and related to the individual, if no single individual controlled the corporation;
- shares in a holding corporation, if all or substantially all of their value come from the above shares;
- property substituted for the above shares;
- property attributable to profits or gains on the above shares; or
- any combination of the above.

Transfer of trust property

Special rules apply to determine the deemed realization date if property is transferred from one trust to another.

If one trust (transferor) transfers capital property, land inventory, or resource property to another trust (transferee), the deemed realization date of the transferee trust becomes the earliest of:

- the transferor's deemed realization date occurring after the transfer, if the transfer had not been made;
- the transferee's deemed realization date occurring after the transfer;

- the day after the transfer, if the transferee had filed a T1015 election, and the new disposition day has not yet occurred.

This rule does not apply to spousal trusts if the beneficiary spouse is still alive at the time of the transfer.

The transferee trust may file a T1015 election to postpone the deemed realization date unless that trust had a previous deemed realization, and has already had the opportunity to make such an election.

Capital dispositions — Other terms

Adjusted cost base 53, 54(a)

Adjusted cost base (ACB) is usually the cost of acquiring property plus or minus certain adjustments allowed under the *Income Tax Act*. The ACB can differ from the original cost if changes have been made to the property between the time it was acquired and the time it was sold. For example, the cost of additions to a building may be added to the original cost. See Interpretation Bulletin IT-456R, *Capital Property — Some Adjustments to Cost Base*, for more information.

Outlays and expenses 40(1)

Outlays and expenses are usually expenses incurred in selling or disposing of capital property. They include certain "fixing-up" expenses, finder's fees, lawyer's fees, commissions, broker's fees, surveyor's fees, transfer taxes and other reasonable expenses directly related to the sale of the property. These outlays and expenses may be applied to reduce a capital gain or increase a capital loss, and in the case of depreciable property sold at a loss, reduce the proceeds from the sale to be credited to the class. They may not be claimed as deductions from income.

Assets acquired before 1972

For assets acquired before 1972, the Valuation Day Value must be considered when computing capital gains and losses. Valuation Day is December 22, 1971 for shares listed in the publication *Valuation Day Prices of Publicly Traded Shares* (available from your district office). Valuation Day for all other assets is December 31, 1971.

To compute a capital gain or loss on an asset acquired before 1972, three values are required:

- the actual cost;
- the Valuation Day Value;
- the proceeds of disposition.

(a) Median rule ITAR 24 and 26(3)

The median of these three amounts, that is, the amount which is neither the highest nor the lowest, becomes the deemed cost (unless the property was depreciable property or an interest in a partnership) on which the capital gain or loss is computed, unless the trustee chooses the Valuation Day Value election referred to below.

When two or more of these three amounts are the same, that amount will be the median. This median amount is considered to be the cost of the asset, and is the amount that should be entered in Column 3 of Schedule 1, if there are no adjustments to the cost base. A capital gain results if the proceeds of disposition exceed the greater of cost and the Valuation Day Value. A capital loss results if the proceeds

of disposition are less than the lesser of cost and the Valuation Day Value.

(b) Valuation Day Value election ITAR 26(7)

The trustee may elect to use the Valuation Day Value for all transactions rather than use the median rule. Once this election is made, it will apply to all assets owned at the end of 1971, regardless of the year when the capital disposition occurs. The election is made on Form T2076, which is available from your district office.

Line 101

Qualified small business corporation shares

110.6(1), 110.6(14), 248(1)

A capital gain from the disposition of this type of share is reported by a personal trust on this line. A share in a small business corporation is considered to be a "qualified small business corporation share" if:

- at the time of disposition, the share was owned by the trust or a partnership related* to the trust; and
- throughout the 24 months before the disposition, the share was not owned by anyone other than the trust, or a person or a partnership related* to the trust; and
- throughout that part of the 24 months immediately before the disposition while the share was owned by the trust or person or partnership related to the trust, it was the share of a Canadian-controlled private corporation (CCPC), and more than 50% of the fair market value of the assets of that corporation were:
 - assets used principally in an active business carried on primarily in Canada by the CCPC, or by a corporation related to it;
 - certain shares or debts of connected corporations; or
 - a combination of the above two categories.

* For purposes of this definition, a person or a partnership is related to a personal trust:

- if that person or partnership is a beneficiary of the trust;
- if the trust is a member of the partnership; (**Pending legislation — Tabled May 30, 1991, effective for 1988 and subsequent taxation years**); or
- when the trust disposes of the shares, all the beneficiaries are related to the person from whom the trust acquired the shares.

Line 102

Qualified farm property 110.6(1)

A capital gain from the disposition of qualified farm property by a personal trust is reported on this line.

Qualified farm property of a personal trust includes property **owned** by the trust that is:

- a share of the capital stock of a family farm corporation; or
- an interest in a family farm partnership; or
- real property or eligible capital property **used** in carrying on the business of farming in Canada by:

- an individual beneficiary to whom the trust has designated taxable capital gains, or a spouse, child or parent of that beneficiary; or
- a family farm corporation or family farm partnership of the trust or beneficiary, or the beneficiary's spouse, child or parent.

Lines 101 and 102

Capital gains reported on lines 101 and 102 qualify for the higher capital gains deduction limit (when the deduction is claimed by a post-1971 spousal trust, or the capital gains are designated to an individual beneficiary.) More details are provided in this guide under "Trust Schedule 6," "Trust Schedule 9, footnotes for box 21" and "Footnotes for box 26," and "Completing the T3 Supplementary form."

For more details on "qualified small business corporation shares" and "qualified farm property," see the 1991 *Capital Gains Tax Guide*.

Other capital properties 39

Other capital properties such as shares, bonds, real estate, etc. that are neither "qualified small business corporation shares," nor "qualified farm property" and, therefore, do not qualify for the higher capital gains deduction (when designated to an individual beneficiary or claimed by a post-1971 spousal trust) fall under the general description of "other capital property" for purposes of completing Trust Schedules 1 to 6 and the T3 Supplementary.

Line 104

Bonds 47(2), ITAR 26(8)

Since bonds may be purchased at a discount or premium, rules have been established for determining the cost figure for bonds acquired before 1972. Form T2084, *Bonds and Other Obligations* and Interpretation Bulletin IT-114, *Discounts, Premiums and Bonuses on Debt Obligations*, are available to help you do the calculations.

Line 105

Real estate or depreciable property

54(a), ITAR 20(1)

A capital gain is realized on depreciable property only if it is sold for more than its original capital cost. If the property was owned on December 31, 1971, the gain is limited to any gain since Valuation Day. There can be no capital loss on the disposition of depreciable property. There may, however, be a terminal loss under the capital cost allowance rules when all the property of a particular class is disposed of.

For more details about the disposition of depreciable property, obtain Interpretation Bulletin IT-217, *Capital Property Owned on December 31, 1971 — Depreciable Property*, and the related Special Release dated September 13, 1982.

Line 106

Personal-use property 40(2)(g)(iii), 46, 54(f)

"Personal-use property" of a trust includes property used primarily for the personal use or enjoyment of a beneficiary

under the trust, or any person related to the beneficiary. It includes property such as personal and household effects, automobiles, boats, personal residences, cottages or antiques. If the trust disposed of such an asset during the year for more than its adjusted cost base, the trust may have to report a capital gain. A gain should be reported only if the selling price (proceeds of disposition) is more than \$1,000 for any asset. If the adjusted cost base is less than \$1,000, show the adjusted cost base as \$1,000. No capital loss is allowed on personal-use property (except certain debts acquired on disposition of such property and listed personal property).

Principal residence 40(4), 40(5), 54(g), 107(2.01)

Pending legislation — From February 11, 1991 draft income tax legislation, applies to dispositions and distributions occurring after 1990

A principal residence acquired by a personal trust usually will be exempt from tax on any gain realized on its disposition or deemed disposition after 1990. The gain may be exempt provided the residence qualifies **and** is designated by the trust as its principal residence. Usually a residence may be so designated if it is inhabited by a "specified beneficiary," or a spouse, former spouse, or child of the specified beneficiary, and they have not designated a property as a principal residence.

For this purpose, a "specified beneficiary" is a beneficiary who had a beneficial interest in the trust **and** who ordinarily lived in the housing unit or who had a spouse, former spouse, or child who ordinarily lived in the housing unit.

The designation must be made by the trust on Form T2091, *Designation of a Principal Residence*. This form must be filed with the T3 return for the year in which the disposition or deemed disposition occurs.

When a personal trust's principal residence is distributed to a beneficiary (to a spouse beneficiary if the personal trust is a spousal trust), the trust may elect, in its tax return for the year of distribution or before April 1, 1992, to be deemed to have disposed of the principal residence at fair market value. The trust can then apply the principal residence exemption to any gain on the deemed disposition. The beneficiary will acquire the property at fair market value.

For taxation years ending before 1991, the benefit of the principal residence designation was available only to a spousal trust. If the property was distributed after May 9, 1985 to the spouse beneficiary on a rollover basis, the above election may be made if it is received by us before April 1, 1992 (**from Pending legislation — Tabled May 30, 1991**).

For more information, see the current versions of Form T2091, *Designation of a Principal Residence*; Interpretation Bulletins IT-366, *Principal Residence — Transfers to Spouse, Spouse Trust or Certain Other Individuals* and the related Special Release; and IT-120, *Principal Residence*.

Lines 107 to 109

Listed personal property 41, 54(e)

Listed personal property consists of:

- prints, etchings, drawings, paintings, sculptures, or other similar works of art;

- jewellery;
- rare folios, manuscripts and books;
- stamps; or
- coins.

Since a listed personal property is a type of personal-use property, the gain or loss on the sale of an item or set of items is calculated in the same manner as the gain or loss on personal-use property by using \$1,000 as the minimum amount for both proceeds and adjusted cost base. If the trust has sold such an item or set for less than its adjusted cost base, the trust may be allowed a capital loss. The loss should be reported only if the adjusted cost base is more than \$1,000. If the selling price is less than \$1,000, show the proceeds of disposition as \$1,000.

Losses on listed personal property can be applied only against gains on other items of listed personal property. When these losses exceed these gains in a particular year, the excess may be used to reduce net gains on listed personal property in the preceding three years and the seven immediately following years.

Line 117

Total amount of reserves

If a taxable capital gain was realized but the full sale price was not received, a restrictive reserve may be established for the unpaid amount. Generally, for property sold after November 12, 1981, the minimum amount of a capital gain to be reported each year is one fifth (1/5) of the taxable capital gain. If a reserve was claimed in 1990, it must be brought back into income in 1991. If all of the proceeds are not due in 1991, a new reserve may be claimed. If the trust is claiming a reserve, complete Trust Schedule 2. For more details on reserves, see the 1991 *Capital Gains Tax Guide* and Interpretation Bulletin IT-236R3, *Reserves — Dispositions of Capital Property*.

Lines 120 and 121

Eligible capital property — Deemed taxable capital gains 14(1), 20(4.2), 39(11)

The disposition of eligible capital property such as goodwill may result in a deemed taxable capital gain to be reported on line 121, or on line 120, if the disposition relates to qualified farm property.

If the trust has a bad debt arising from the disposition of eligible capital property, three quarters (3/4) of that loss may be deducted as an allowable capital loss on Trust Schedule 1, on line 120 or 121. Alternatively, if the trust has never designated capital gains to beneficiaries, this deemed allowable capital loss may be claimed as a deduction from total income on line 40, page 2 of the T3 return.

For more information on deemed taxable capital gains on the disposition of eligible capital property, see the 1991 *Farming Income Tax Guide*, the 1991 *Fishing Income Tax Guide*, or the 1991 *Business and Professional Income Tax Guide*.

Canadian cultural property

39(1)(a)(i.1), 118.1(10)

For information on dispositions of Canadian Cultural Property, see the 1991 *Capital Gains Tax Guide* and Interpretation Bulletin IT-407R3, *Disposition after 1987 of Canadian Cultural Property*.

Line 122**Total taxable capital gains 40(1)**

The amount from line 122 should be entered on line 01, "Taxable capital gains" on page 2 of the T3 return.

Do not enter a loss amount on line 01. Capital losses, realized after May 22, 1985 may be used only to offset capital gains in the current year. Any excess becomes a net capital loss that may be applied against taxable capital gains in a previous or future year. A loss carryback to a previous year must be requested on or before the due date of the T3 return for the year in which the loss occurs. See "Net capital losses of other years" under line 52 of this guide.

Records — Capital transactions

Records or vouchers relative to capital transactions do not need to be filed with the T3 return, but must be retained. For more details, see Information Circular 78-10R2, *Books and Records Retention/Destruction*.

Trust Schedule 2**Lines 210 to 216****Calculation of Reserves on Dispositions of Capital Property**

Complete Trust Schedule 2 if a reserve on the disposition of capital property:

- was claimed at the end of the previous year; or
- is being claimed at the end of the current taxation year.

You need information from Schedule 2 to complete:

- Trust Schedule 1 — to calculate the reserve amount to include in, or exclude from, current year capital gains;
- Trust Schedules 3 and 6 — to calculate capital gains eligible for the capital gains deduction, by identifying reserves that apply to dispositions occurring after 1984, and that apply to qualified farm property and qualified small business corporation shares; and
- Trust Schedule 12 — to calculate minimum tax, by segregating reserves relating to dispositions before 1986.

Trust Schedule 3**Lines 301 to 334****Calculation of a Trust's Eligible Taxable Capital Gains**

104(21), 104(21.1), 104(21.2), 104(21.3)

Complete Trust Schedule 3 if the trust is designating taxable capital gains to an individual beneficiary (T3 Supplementary, box 21) or if it is a post-1971 spouse trust claiming a capital gains deduction on Trust Schedule 5.

Please note that if you complete this schedule, you must also complete and submit Trust Schedule 4, *Calculation of Cumulative Net Investment Loss*.

Lines 301 to 310**Part I. Trust's annual gains limit for current year 110.6**

The trust's annual gains limit is the amount by which:

- 1991 taxable and deemed taxable capital gains (excluding reserves on dispositions that occurred before 1985) less 1991 allowable capital losses; **exceeds the total of:**
- 1991 allowable business investment losses, and net capital losses of other years claimed in 1991.

Lines 320 to 328**Part II. Trust's cumulative gains limit at the end of the trust's current taxation year 110.6**

The trust's 1991 cumulative gains limit is:

- the amount by which the total of the taxable and deemed taxable capital gains **exceeded** allowable capital losses in the years from 1985 to 1991 inclusive, from dispositions occurring in those years (excludes reserves on dispositions occurring before 1985); **exceeds**
- the total of:
 - allowable business investment losses claimed in 1985 to 1991 inclusive; and
 - net capital losses of other years claimed in 1985 to 1991 inclusive; and
 - allowable capital losses deducted from other income in 1985 (not exceeding \$2,000); and
 - cumulative net investment loss* at the end of 1991.

Note *

Use Trust Schedule 4 to calculate cumulative net investment loss at the end of 1991.

Lines 330 to 334**Part III. Trust's eligible taxable capital gains for current year 108(1)(d.2)**

The eligible taxable capital gains amount determined here is the amount of the trust's taxable capital gain that qualifies for the capital gains deduction in the hands of each beneficiary who is an individual, or for a post-1971 spousal trust claiming a capital gains deduction on Trust Schedule 5. The trust's eligible taxable capital gains for the current year is the **lesser** of:

- the trust's annual gains limit for the current year; and
- the trust's cumulative gains limit at the end of the current year **less** the total amounts of eligible taxable capital gains designated in previous years (1985 to 1990 inclusive).

Trust Schedule 4
Lines 401 to 430
Calculation of Cumulative Net
Investment Loss 110.6

Complete Trust Schedule 4 if the trust is designating taxable capital gains to individual beneficiaries, or if it is a post-1971 spouse trust claiming a capital gains deduction on Trust Schedule 5. Complete this schedule even if the trust does not have a cumulative net investment loss (CNIL) on line 430.

The CNIL, calculated on line 430, reduces the trust's cumulative gains limit (calculated on Trust Schedule 3, Part II). This reduces the trust's eligible taxable capital gain for the beneficiaries' capital gains deduction.

CNIL is the amount by which the total of the investment expenses for years ending after 1987 exceeds the total of investment income for years ending after 1987.

For purposes of the CNIL, investment income and expenses refer to income and expenses related to property such as dividends, interest and rental income.

You should complete Trust Schedule 4 each year and keep it with the trust's records, even for years when the trust is not reporting capital gains or losses, and is not designating eligible taxable capital gains to its beneficiaries. The total amount of the trust's investment expenses and income for 1988 and subsequent years will be needed in the future to determine the eligible taxable capital gains for purposes of an individual beneficiary's capital gains deduction, or for a spouse trust to claim a capital gains deduction in the year in which the beneficiary spouse dies.

Trust Schedule 5
Lines 501 to 525
Beneficiary Spouse Information and
Calculation of Spouse Trust's
Capital Gains
Deduction 110.6(12)

Complete the "Deceased spouse information" in Part A for every spousal trust in the taxation year during which the beneficiary spouse died.

Complete Trust Schedule 5, Part B to determine the capital gains deduction of a post-1971 spousal trust for the year during which the beneficiary spouse died.

A post-1971 spousal trust may claim a capital gains deduction in the taxation year in which the beneficiary spouse dies, to the extent that the beneficiary spouse would have claimed a deduction for the eligible taxable capital gains if the gains had belonged to that spouse and not to the trust.

Before completing this schedule, you must calculate:

- the trust's eligible taxable capital gains (Trust Schedule 3, line 334); and
- the spouse's unused lifetime capital gains deduction limit for the year in which the spouse died (calculated on Form T657 or T657A).

Please attach a copy of the spouse's Form T657 or T657A to the T3 return.

Trust Schedule 6
Lines 610 to 613
Calculation of Total Taxable Capital
Gains Attributable to Qualified Farm
Property or Qualified Small
Business Corporation
Shares 104(21.2)

If the trust disposed of qualified farm property or qualified small business corporation shares, and it is designating eligible taxable capital gains to an individual beneficiary (or claiming the capital gains deduction on Trust Schedule 5, above), calculate the amounts attributable to these properties to enable the beneficiary (or spousal trust) to take advantage of the higher capital gains deduction on these properties.

If the trust is designating eligible taxable gains to a beneficiary, the information from this schedule will be used:

- to calculate each beneficiary's share of **net taxable capital gains designated** from qualified farm property or qualified small business corporation shares (Footnotes for line 921 and box 21); and
- to calculate each beneficiary's share of **eligible taxable capital gains** from qualified farm property or qualified small business corporation shares (Footnotes for line 930 and box 30).

For more details, see the explanations in this guide under Trust Schedule 9, "Footnotes for line 921 (and box 21)" and "Footnotes for line 930 (and box 30)."

A post-1971 spousal trust claiming the capital gains deduction will use the information on this schedule to calculate the trust's capital gains deduction on Trust Schedule 5.

Trust Schedule 7
Statement of Pension Income
Allocations/Designations

Complete this schedule if the trust is designating pension income to beneficiaries.

There are four columns on this schedule to help you determine what pension income may be designated to beneficiaries and the reason for the designation.

1. Box 22 — You may report pension income in box 22 as a pension benefit on a beneficiary's T3 Supplementary if it qualifies for a paragraph 60(j) transfer to a Registered Retirement Savings Plan or to a Registered Pension Plan.
2. Box 26 — Report all other pension income in box 26 as other income on the T3 Supplementary.

The total of the pension amounts entered in boxes 22 and 26 may not exceed the lesser of the pension income reported by the trust on line 02 on the T3 return, and the income before allocations or designations on line 46 of the T3 return.

Some of the pension income in boxes 22 and 26 may qualify for further designations. These are provided for in boxes 31 and 36.

3. **Box 31** — Report in box 31, the amounts designated to a beneficiary spouse that qualify as eligible pension income for purposes of the pension income non-refundable tax credit.
4. **Box 36** — Report in box 36, the amounts designated to a minor beneficiary that qualify for the purpose of acquiring an annuity under paragraph 60(1).

For the purpose of designating pension income to a beneficiary, a spouse includes a common-law spouse of the opposite sex who was living with the deceased at the time of death in a conjugal relationship, and either had lived with the deceased for a period of at least one year, or is the natural or adoptive parent of the deceased person's child.

For more details, please see the 1991 *Pension and RRSP Tax Guide*.

Trust Schedule 8 Lines 805 to 824 Statement of Investment Income and Calculation of Gross-up Amount of Dividends Retained by Trust

Line 805

Actual amount of dividends from taxable Canadian corporations 82(1)

Attach a schedule listing the amount of taxable dividends received from taxable Canadian corporations from Form T3 Supplementary, box 23, and Form T5 Supplementary, box 10. This list should include actual and deemed taxable dividends but should not include non-taxable dividends, as explained under line 815. Include all taxable dividends credited through banks, trust companies, brokers, etc. Deduct the amounts paid by the trust in the year under a securities lending arrangement that are deemed by subsection 260(5) of the Act to have been received by another person as taxable dividends.

Taxable dividends received from taxable Canadian corporations qualify for the dividend tax credit on the grossed-up amount. This may reduce the tax payable by the trust or, if the taxable dividends were designated to individual beneficiaries, the tax payable by the individual beneficiaries.

Line 808

Foreign investment income

Report investment income from sources outside Canada on this line, in Canadian dollars. To convert foreign funds to Canadian dollars, use the foreign exchange rate in effect at the time the income was received. Report the full amount of the foreign income. Do not deduct any tax withheld at source.

Line 815

Other investment income

Some of the more common types of income to be reported on this line are bond interest, bank interest, mortgage interest, and dividends (other than those received from taxable Canadian corporations, reported on line 805, and non-taxable dividends discussed below). Report interest credited on tax refunds on this line for the year it is received. Interest credited to the trust's account by a financial institution is considered to have been received by the trust. For more information on the method of reporting investment income, see the 1991 *General Tax Guide* and Interpretation Bulletin IT-396R, *Interest Income*.

Non-taxable dividends received by a trust

83(1), 83(2), 53(2)

An example of a non-taxable dividend occurs when a Canadian private corporation pays a tax-free dividend out of its capital dividend account. If the trust receives a dividend of this type, the dividend is **not** included in its income.

It should be noted that certain non-taxable dividends (other than dividends paid out of the capital dividend account) received by the trust may reduce the adjusted cost base of the shares on which the dividends were paid. This may be relevant in computing a capital gain (or loss) on the subsequent disposition of the shares.

If the trust is allocating non-taxable dividends to its beneficiaries, the trust should inform the beneficiaries that the dividends are not to be included when computing their income. The trust must also file a statement with the T3 return containing the following information:

- name of payor corporation;
- names of the beneficiaries and the amount of non-taxable dividends that each beneficiary receives.

Line 820

Carrying charges

Attach a list of the types and amounts of carrying charges claimed to the T3 return.

Carrying charges incurred on both Canadian and foreign investment income must be apportioned on a reasonable basis, and the calculation attached to the T3 return.

Transfer the amount from line 820 (the total of lines 816 to 819) onto page 2 of the T3 return, line 21.

Lines 821 to 824

Part B. Calculation of gross-up amount of dividends retained by the trust

This calculation determines the gross-up amount of dividends from taxable Canadian corporations included in line 805 above, and retained by the trust. The gross-up rate for dividends received in the 1991 taxation year is 25% (1/4) of the dividends received.

Line 821 Total dividends reported before applying expenses

Enter the amount of dividends from taxable Canadian corporations from line 805 above.

If the trust received taxable dividends on shares acquired after April 30, 1989 under a dividend rental arrangement, as defined in subsection 248(1) of the Act, deduct these dividends from the taxable dividends included in the amount reported on line 805. Report the net figure only on line 821.

Line 822 Dividends designated to beneficiaries

From line 821, deduct net (after related expenses) dividends **designated** to beneficiaries (the amount from Trust Schedule 9, line 923). If dividends have been allocated (included in the amount on line 926 of Trust Schedule 9) but not designated to beneficiaries, do not deduct the allocated dividends.

Line 824 Gross-up amount of dividends retained or NOT designated by the trust

The remaining amount on line 823, "Total dividends retained or NOT designated by the trust" is multiplied by 25% (1/4) to arrive at the amount on line 824. Please note that the gross-up rate is applied to actual dividends (that have been retained in the trust, or allocated but not designated to beneficiaries) before deducting related expenses.

Transfer the amount from line 824 onto page 2 of the T3 return, line 49, and onto Trust Schedule 11, line 1111, or onto Trust Schedule 12, line 1217, if applicable. Claim the carrying charges relating to dividends on line 819 of this schedule.

For more information, see Interpretation Bulletin, IT-524, *Trusts — Flow Through of Taxable Dividends to a Beneficiary — After 1987*.

Trust Schedule 9 Lines 901 to 944 Summary of Income Allocations/Designations to Beneficiaries

Complete this schedule if the trust is allocating or designating income to beneficiaries. You will also need to file a T3 Summary and T3 Supplementaries.

Allocations or designations 104(6), (13), (19), (20), (21), (27), (29)

In this guide and on the T3 returns, the words "allocated" and "allocation" are used to refer to amounts deducted from the income of the trust (on line 47) that have to be included in the income of the beneficiary. "Allocation" refers to the flow-through of trust income to a beneficiary when the beneficiary is entitled to the income under the trust

document, or when the trust income is included in the income of the beneficiary as a result of a preferred beneficiary election.

The words "designated" and "designation" are used when some special provision of the *Income Tax Act* is being applied. In all cases, amounts designated to a beneficiary retain their identity to allow the beneficiary to take advantage of some deduction or credit applicable to that income, such as the capital gains deduction or dividend tax credit. If no amounts could be "designated," only one income box would be needed on the T3 Supplementary because the entire amount allocated would be shown on Trust Schedule 9 on line 926 as "Other income."

The trustee may choose to "designate" the following income amounts to a beneficiary:

- net taxable capital gains;
- certain pension benefits;
- dividends from taxable Canadian corporations;
- foreign business income;
- foreign non-business income; and
- farming and fishing income.

These designated amounts appear on the T3 Supplementary in boxes 21 to 25, and 27.

Use Trust Schedule 9, Part C, and the T3 Supplementary, boxes 30 to 42, to provide additional information regarding other designated amounts, including non-income amounts such as foreign income tax paid, Part XII.2 tax credit, and other tax credits which are being flowed-through to the beneficiary.

For more details, see Interpretation Bulletins IT-342R, *Trusts — Income Payable to Beneficiaries*, and IT-524, *Trusts — Flow Through of Taxable Dividends to a Beneficiary — After 1987*.

Whether trust income is allocated to beneficiaries or taxed in the trust, it must be done according to the provisions of the will or trust document, subject to the exceptions discussed below.

1. Certain inter vivos trusts created since 1934 in which property (or property substituted therefor) which has not been absolutely vested, is subject to the discretionary power of the contributor of the property, and could revert to the contributor or pass to persons to be subsequently determined by the contributor. Any income, including taxable capital gains and allowable capital losses from that property is considered to belong to the contributor during the contributor's lifetime while a resident of Canada. For more information, obtain Interpretation Bulletin IT-369R, *Attribution of Trust Income to Settlor*.
2. **Designated income to be taxed in trust**
104(13.1), 104(13.2)

A trust may choose to retain income in the trust rather than report it in the hands of the beneficiaries. This applies to the 1988 taxation year (if the taxation year commenced in 1988) and to subsequent taxation years. It applies to income paid or payable to beneficiaries. The trust must be resident in Canada throughout the year and not be exempt from tax. The choice of retaining income in the trust is called a designation under subsection 104(13.1). It is made by not deducting

the amount designated, and by stating on the T3 return for the year that a designation is being made under subsection 104(13.1). The latter may be done by ticking the "yes" box of Question 9 on page 1 of the return.

This designation reduces a beneficiary's income from the trust by a proportionate share of the income that was chosen to be kept in the trust. The proportionate share formula used to calculate this reduction will not allow one beneficiary's share of income to be totally taxed in the trust, and another beneficiary's share to be taxed in the beneficiary's hands.

If taxable capital gains are included in the income to be kept in the trust, a similar designation may be made under subsection 104(13.2). The beneficiary's taxable capital gains is reduced by the beneficiary's proportionate share of taxable capital gains retained in the trust.

A trust may have a net capital or non-capital loss carryforward from a previous taxation year and current year taxable capital gains. By using the above provisions, the trust may choose not to deduct the full amount to which it is entitled under subsection 104(6), thereby allowing the net capital or non-capital loss carryforward to absorb the current year taxable capital gain.

Generally, amounts designated under subsections 104(13.1) and 104(13.2) will reduce the adjusted cost base of a beneficiary's capital interest in the trust unless the interest was acquired for no consideration, and the trust is a personal trust.

If the trust is designating, under subsections 104(13.1) or 104(13.2), any portion of the beneficiary's income to be retained in the trust, be sure to answer "yes" to Question 9 on page 1 of the T3 return.

Attach a statement to the T3 return showing the income being designated, and the amounts designated for each beneficiary.

A trust must make the designation under subsections 104(13.1) and 104(13.2) when the T3 return is filed. After a return is FILED, a designation under subsections 104(13.1) and 104(13.2) may not be made, changed or withdrawn.

Additional details are provided in Interpretation Bulletin IT-342R, *Trusts — Income Payable to Beneficiaries*.

The following formulas are used to calculate designations under subsections 104(13.1) and 104(13.2).

(a) Subsection 104(13.1)

$$\frac{A}{B} \times (C - D - E)$$

A is the particular beneficiary's share of trust income, calculated without reference to the *Income Tax Act*.

B is the total of amount A for all beneficiaries.

C is the trust income (calculated by using income tax rules) that would be reported by all beneficiaries **before** making a designation under subsections 104(13.1) and 104(13.2).

D is the amount of trust income (calculated using income tax rules) that is left to be distributed to beneficiaries after making a designation under

subsection 104(13.1), and for which a deduction is claimed.

E is the amount designated under subsection 104(13.2) for taxable capital gains to be retained in the trust.

$\frac{A}{B}$ represents the income sharing ratio of a beneficiary.

C - D represents the total amount designated and retained in the trust.

(b) Subsection 104(13.2)

$$\frac{A \times C}{B}$$

A is the beneficiary's share of the taxable capital gains of the trust calculated under income tax rules.

B is the total of amount A for all beneficiaries.

C is the total amount of net taxable capital gains of the trust that is retained in the trust (that if not designated under this subsection or subsection 104(13.1) would otherwise be reported by the beneficiaries).

Example 1

A trust has net income of \$8,000 that is shared equally between two beneficiaries, X and Y. The net income of \$8,000, which was calculated by using trust rules, did not change when income tax rules were applied. The trustee and beneficiaries have decided that it would be more beneficial to tax the income in the trust than in the hands of X and Y. There are no capital gains.

The amount designated under subsection 104(13.1) for beneficiary X, using the formula

$$\frac{A}{B} \times (C - D - E) \text{ is } \$4,000.$$

$$A = \$4,000; B = \$8,000; C = \$8,000; D = 0; E = 0.$$

$$\frac{\$4,000}{\$8,000} \times (8,000 - 0 - 0) = \$4,000.$$

The calculation for Y would be the same.

Example 2

Assume in Example 1 that the net income of \$8,000 includes \$2,000 taxable capital gains.

The amount designated under subsection 104(13.2), using the formula

$$\frac{A}{B} \times C \text{ for beneficiary X, is } \$1,000.$$

$$A = \$1,000; B = \$2,000; C = \$2,000.$$

$$\frac{\$1,000}{\$2,000} \times 2,000 = \$1,000.$$

The calculation for Y would be the same.

Example 3

If only \$3,000 income was retained in the trust, which included the full amount of taxable capital gains, the calculation in Example 1, using formula

$$\frac{A}{B} \times (C - D - E) \text{ would be:}$$

$$\frac{\$4,000}{\$8,000} \times (8,000 - 5,000 - 2,000)$$

$$= \$8,000$$

$$1/2 \times 1,000 = \$500 \text{ each for X and Y.}$$

The total designations would be:

	<u>Beneficiary X</u>	<u>Beneficiary Y</u>	<u>Total</u>
Subsection 104(13.1)	\$ 500	\$ 500	\$1,000
Subsection 104(13.2)	<u>1,000</u>	<u>1,000</u>	<u>2,000</u>
Reported in the trust	\$1,500	\$1,500	\$3,000
Reported by beneficiaries	<u>2,500</u>	<u>2,500</u>	<u>5,000</u>
Total income	<u>\$4,000</u>	<u>\$4,000</u>	<u>\$8,000</u>

Allocation or designation of losses

Net capital losses and non-capital losses **cannot be allocated or designated** to beneficiaries of a trust.

There are two exceptions to this rule:

- Report losses of an insurer's related segregated fund trust in box 37 on the beneficiary's T3 Supplementary.
- Losses of revocable trusts and from "blind trusts." Report these losses in brackets in box 21 on a separate T3 Supplementary for the beneficiary. Clearly indicate the type of loss on the T3 Supplementary in the footnote space.

Part A

Application of expenses against specific types of income before allocations/designations Lines 901 to 912

Expenses deducted on line 41 must be applied against specific types of income before income can be allocated or designated to beneficiaries. Expenses that relate to more than one source of income must be apportioned on a reasonable basis to the applicable sources of income of the trust. When all the income is allocated or designated to beneficiaries, we will allow an alternative apportionment of expenses, for example, to provide the maximum flow-through to a beneficiary of the dividend tax credit. For more information and the conditions for accepting this alternative apportionment of expenses, see Interpretation Bulletin IT-524, *Trusts — Flow Through of Taxable Dividends to a Beneficiary — After 1987*.

Part B

Total income allocations/designations to beneficiaries Lines 921 to 928

The allocation or designation of income to beneficiaries includes income paid or payable to resident beneficiaries (column I), income paid or payable to non-resident beneficiaries (column II), and income accumulating in the trust which both the trustee and a resident "preferred beneficiary" have jointly elected to tax in the hands of the preferred beneficiary (column III). Refer to the appropriate column heading in this guide for more details, especially column III, regarding the "preferred beneficiary election." Amounts allocated or designated on lines 921 to 927 to a

beneficiary are excluded from the trust's income, and included in the income of the beneficiary. These income amounts are shown in boxes 21 to 27 on the T3 Supplementary.

Income paid or payable to resident beneficiaries

Column I, lines 921 to 927 Boxes 21 to 27 104(13)

This column allocates or designates the different types of income paid or payable to resident beneficiaries, and any taxable benefits to be allocated or designated to beneficiaries. If the income is "allocated," but no amounts are "designated," the "allocated" amount should be entered on line 926 (and box 26 of the T3 Supplementary). If the income is being designated, the amounts may be entered on lines 921 to 925, and line 927 (and in boxes 21 to 25, and box 27). In addition, use lines 930 to 944 in Part C (and boxes 30 to 42), if applicable.

For more details see Interpretation Bulletins IT-286R2, *Trusts — Amounts Payable* and IT-342R, *Trusts — Income Payable to Beneficiaries*.

Income paid or payable to non-resident beneficiaries

Column II, lines 921 to 927 104(13), 212(1)(c)

This column allocates the different types of income paid or payable to non-resident beneficiaries. The different types of income retain their identity on this schedule to identify the source of the income kept in the trust. Income such as taxable capital gains (unless the trust is a mutual fund trust) and taxable dividends from taxable Canadian corporations may not be designated and, therefore, lose their identity when allocated to non-resident beneficiaries. The total of the amounts in column II should be reported as "Estate or trust income" on the NR4B Supplementary form, instead of on the T3 Supplementary form.

Most amounts paid or payable to a non-resident beneficiary are subject to a Part XIII withholding tax. See guide item, "Non-resident beneficiaries." The total of column II should be transferred to Trust Schedule 10, Part B. Part XIII Non-resident withholding tax, line 1020.

The trust may also be subject to Part XII.2 tax if it is distributing income to non-resident beneficiaries. For information on Part XII.2 tax, see guide item, "Trust Schedule 10, Part A. Calculation of Part XII.2 tax."

By preferred beneficiary election — Resident beneficiaries

Column III, lines 921 to 927 Box 21, and boxes 23 to 27 104(14), Regulation 2800

Use this column to allocate or designate the trust's elected accumulating income for 1991. The trustee and a preferred beneficiary may jointly elect to have this accumulating income taxed in the hands of the preferred beneficiary in 1991. See "Preferred beneficiary" and "Preferred beneficiary election" below. Complete a separate T3 Supplementary form for this elective income.

The following types of trust income may retain their identity and be designated under a preferred beneficiary election:

- taxable capital gains (line 921);
- actual amount of dividends from taxable Canadian corporations (line 923);
- foreign business income (line 924);
- foreign non-business income (line 925);
- farming or fishing income (line 927).

Elective income not designated in one of the above categories should be taxed in the beneficiary's hands as "Other income." The designations must be made by the trust in its return for the year in which the relevant amounts are included in the income of the trust.

Preferred beneficiary 108(1)(g), (h)

A "preferred beneficiary" of a trust means an individual resident in Canada who is a beneficiary under the trust and is:

- the settlor of the trust; or
- the spouse or former spouse of the settlor of the trust; or
- a child, grandchild or great grandchild of the settlor of the trust; or
- the spouse of any person described in the preceding item.

For the definition of "settlor," see Interpretation Bulletin IT-374, *Meaning of Settlor*.

Preferred beneficiary election

104(12), (14) and (15), 108(1)(a), Regulation 2800

A trust and a preferred beneficiary may jointly elect in the year that part or all the trust's accumulating income received in the year be included in a preferred beneficiary's income for that year, and not in the year in which it is paid to any beneficiary. The trust may then deduct from its income, the amount elected to be included in the preferred beneficiary's income. The amount elected must be stipulated in the election and must not exceed the preferred beneficiary's share in the accumulating income.

This election in respect of a taxation year should be made by filing the following documents:

- a statement making the election for the year, stating the part of the income on which the election is made, and signed by both the preferred beneficiary (or guardian) and the trustee having the authority to make the election; and
- a statement, signed by the trustee, showing the computation of the preferred beneficiary's share in the income of the trust for the year along with any information about the provisions of the trust and its administration as is necessary for the purpose.

The election must be filed, with the T3 return or separately, within 90 days from the end of the trust's taxation year on which the election was made. Please be aware that for a preferred beneficiary election to be valid, it must be filed on time. Once an election is made and assessed, it cannot be rescinded. If the election is filed late, the accumulating income will be taxed in the hands of the trust.

These same filing requirements must be followed each year that a preferred beneficiary election is made.

Interpretation Bulletin IT-394R, *Preferred Beneficiary Election*, deals with the subject in considerable detail.

**Line 921
Capital gains designated by a trust to beneficiaries 104(21), 104(21.3)**

If all or a portion of a Canadian resident trust's net taxable capital gains is allocated to a beneficiary, that amount, if designated by the trust is considered to be a taxable capital gain of the beneficiary.

Net taxable capital gains of a trust is the amount by which:

- the total of taxable capital gains for a taxation year; exceeds the total of:
 - allowable capital losses for the taxation year; and
 - net capital losses of other years deducted in computing the taxable income of the trust for the taxation year.

The trust's net taxable capital gains is calculated at line (3) in the chart below.

If the trust is making the designation, complete the following chart to determine the amount to be entered on line 921, and in box 21 on the beneficiary's T3 Supplementary.

Net taxable capital gains	
Taxable capital gains less allowable capital losses (from Trust Schedule 1, line 122)	_____ (1)
Subtract: Net capital losses of other years deducted in the current year (T3 return, page 4, line 52)	_____ (2)
Net taxable capital gains of the current year	===== (3)
Net taxable capital gains designated in the current year	
Amount from line (3), above	_____ (4)
Amount from Trust Schedule 9, line 901	_____ (5)
Amount from T3 return, page 2, line 46	_____ (6)
Net taxable capital gains designated in current year (cannot exceed the least of amounts (4), (5) and (6))	_____ (7)
Subtract: Amount designated under S.S. 104(13.2) to be taxed in the trust*	_____ (8)
Net taxable capital gains designated in current year	===== (9)
Enter this amount on Trust Schedule 9, line 921.	

The amount to be entered on the T3 Supplementary in box 21 is the capital gain amount which for 1990 and subsequent taxation years is four thirds (4/3) the beneficiary's share of the net taxable capital gains amount on line 921.

* If the trust chooses to reduce its current year taxable capital gains (such as with a net-capital or non-capital loss carryforward) according to subsection 104(13.2), the net taxable capital gain designated to a beneficiary must be reduced accordingly. [See "Designated income to be taxed in the trust 104(13.1) 104(13.2)."]

If you complete line 921, you will also have to complete line 930 for purposes of the beneficiary's capital gains deduction.

Line 922**Pension benefits 104(27), 104(27.1), 60(j)**

Certain pension and superannuation benefits, and certain amounts received from a deferred profit sharing plan may be designated by a testamentary trust to have been received by a particular beneficiary and not by the trust. Enter on line 922 those amounts from Trust Schedule 7 that are eligible for a paragraph 60(j) transfer to a registered pension plan or a registered retirement savings plan.

Line 926**Other income**

Enter on this line, all income distributed to beneficiaries that is not shown on lines 921 to 925, or on line 927.

Include on this line, deemed taxable capital gains from the disposition of eligible capital property. The trust reported these amounts on Trust Schedule 1, lines 120 and 121. As well, show these deemed taxable capital gains amounts in the footnotes for box 26.

Line 927**Farming or fishing income 119(7)**

Farming or fishing income, from lines 07 and 08 on page 2 of the T3 return, should be entered on this line if allocated to a beneficiary, or to a member of a communal organization, to identify farming and fishing income for a block-averaging election.

Line 928**Total**

The total of lines 921 to 927 is the income allocated or designated to the beneficiaries and may not exceed "trust income before allocations/designations," on line 46, page 2 of the T3 return.

Footnotes for line 921 (and box 21)

If the trust disposed of qualified farm property or qualified small business corporation shares, and if it is designating capital gains to an individual beneficiary, a further calculation is required to determine the amount on line 921 (and in box 21) that is attributable to each type of property.

Use the following formula to calculate each beneficiary's share of **net taxable capital gains designated**, from qualified farm property, qualified small business corporation shares and other property.

$$(A) \frac{\quad}{(B)} \times (C) \frac{\quad}{(B)} = (D) \frac{\quad}{(B)}$$

(B) _____

(A) = Positive amount from Trust Schedule 6, line 612; column 1., or column 2; or column 3.

(B) = Total of positive amounts from Trust Schedule 6, line 612, column 4.

(C) = Particular beneficiary's share of trust's net taxable capital gains designated in the year [from the chart above at line 921, item (9)].

(D) = Amounts for qualified farm property and qualified small business corporation shares to be shown as a footnote to box 21 on the particular beneficiary's T3 Supplementary. For instructions on completing the T3 Supplementary form, see guide item "Completing the T3 Supplementary form."

Enter the total of the amounts determined at (D) for qualified farm property in the appropriate space on Trust Schedule 9, footnotes for box 21.

Enter the total of the amounts determined at (D) for qualified small business corporation shares in the appropriate space on Trust Schedule 9, footnotes for box 21.

If line 612 (and line (D)) includes deemed taxable capital gains from the disposition of eligible capital property, show these amounts in the footnotes for box 26 (and not in the footnotes for box 21).

Footnotes for line 926 (and box 26)

If line 926 includes deemed taxable capital gains from the disposition of eligible capital property, enter the amount in the appropriate space, "Eligible capital property — Qualified farm property (QFP)" or "Eligible capital property — Other."

Part C

Summary of other amounts designated Lines 930 to 944

This area should be completed only when there are designations such as dividends from taxable Canadian corporations, and foreign taxes paid for credit purposes.

Line 930**Capital gains eligible for deduction
104(21.2)**

If a trust makes the designation on line 921, it must also designate a portion of its **eligible taxable capital gains** (in respect of the beneficiary) for purposes of the beneficiary's capital gains deduction.

The trust's eligible taxable capital gains is calculated on Trust Schedule 3, line 334.

Complete the following chart and formula to determine the amount to enter on line 930 and in box 30 of the beneficiary's T3 Supplementary.

Net taxable capital gains of the current year (from chart at line 921, item (3)) _____ (11)

Subtract:

Total investment expenses claimed in current year (from Trust Schedule 4, line 409) _____ (12)

Less: Total investment income reported in current year (from Trust Schedule 4, line 427) _____ (13)

Subtract line (13) from line (12), if negative, enter 0. _____ > _____ (14)

Subtract line (14) from line (11), if negative, enter 0. _____ (15)

Net taxable capital gains designated in the current year (from chart at line 921, item (9)) _____ (16)

Greater of lines (15) and (16) _____ (17)

(Lines (11) to (15) and (17) result from Pending legislation — Tabled May 30, 1991, effective for 1988 and subsequent taxation years).

(E) _____ x (G) _____ = (H) _____

(F) _____

(E) = Beneficiary's share of designated amount from line (16) above.

(F) = Amount from line (17) above.

(G) = Eligible taxable capital gains, amount from Trust Schedule 3, line 334.

(H) = Particular beneficiary's share of the trust's eligible taxable capital gains.

On Trust Schedule 9, line 930, enter the total of the amounts determined in (H).

On the T3 Supplementary in box 30, enter four thirds (4/3) the amount determined on line (H).

Note

Keep a copy of these calculations and of Trust Schedule 3 with your records as you will need the information to determine the cumulative gains limit whenever a designation of the trust's eligible taxable capital gains is made in subsequent years.

Line 931**Eligible pension income**

104(27), 118(3), 118(7)

Testamentary trusts may include pension income amounts from line 02 on page 2 of the T3 return that qualify as pension income for the pension income non-refundable tax credit on the beneficiary's T1 return. This designation applies only if the beneficiary was the spouse (or common-law spouse) of the deceased, and if the trust

received the benefits from a life annuity from a superannuation or pension fund. Refer to Trust Schedule 7 for more details.

Line 934**Foreign non-business income tax paid**

104(22)(b), 126(1)(a)

If the trust is designating a foreign tax credit to a beneficiary, it must submit a valid receipt or information slip from the foreign country to substantiate the foreign non-business income tax paid by the trust, or withheld from foreign non-business income earned by the trust.

The proportion of foreign taxes designated to a beneficiary must be in the same proportion as the foreign income designated to that beneficiary. Foreign taxes paid in foreign currency must be converted to Canadian funds.

Please see Interpretation Bulletin IT-270R2, *Foreign Tax Credit* and guide item, "Federal foreign tax credit," for more details.

Line 935**Death benefits 104(28), 248(1)**

If a testamentary trust receives a payment, normally from the deceased person's employer or from a trust fund established by the employer, which was paid as a result of the employee's death and in recognition of the employee's service in an office or employment, the payment may qualify as a "death benefit" as defined by subsection 248(1) of the *Income Tax Act*.

When the death benefit payment is to be allocated to a beneficiary according to the provisions of the will, the beneficiary may be entitled to exclude up to \$10,000 of the payment from income. Box 35 is provided on the T3 Supplementary form to inform the beneficiary of the amount in box 26 that is a death benefit, and which is eligible for this exemption. The information is then used by the beneficiary to calculate the taxable portion to be reported on the *T1 Individual Income Tax Return*.

If the death benefit is deducted from the trust income, and only the taxable portion flows out to the beneficiary, the trustee must ensure that only the taxable portion of the death benefit is reported on line 19, page 2 of the T3 return, and that only box 26 (and not box 35) should be completed on the T3 Supplementary. See guide item, "line 19."

Payments from the Canada Pension Plan (CPP) are not considered to be paid in recognition of an employee's service in an office or employment. Consequently, CPP death benefits are not eligible for the \$10,000 exemption, therefore, they are not to be included in box 35 on the T3 Supplementary.

Line 936

104(27), 60(l), 104(28), 60(j.1), 143(2)

On this line enter amounts such as:

- pension income that is eligible for paragraph 60(l) transfer to an annuity for a minor, from Trust Schedule 7;

- retiring allowances (from line 19) which qualify for paragraph 60(j.1) transfer to a registered pension plan or registered retirement savings plan;
- charitable donations designated to the beneficiaries of a communal organization. (from Pending legislation — Tabled May 30, 1991, effective for 1990 and subsequent taxation years).

A lump-sum payment out of a registered pension plan may be designated by a testamentary trust to a beneficiary for the purpose of acquiring an annuity under subclause 60(l)(v)(B.1)(II), if that beneficiary is a child or grandchild of the deceased person, and was under 18 at the time of the deceased person's death. See guide item, "Taxation year, testamentary trust."

Line 938
Part XII.2 tax credit 104(31), 210.2(3)

Enter the amount from Trust Schedule 10, Part A, line 1010. The Part XII.2 tax credit may be designated only to those resident beneficiaries to whom income was allocated or designated in Part B above in column I, line 928.

Lines 940 and 941
Investment tax credit (ITC) designated 127(7)

Only testamentary trusts and communal organizations (section 143) may designate the investment tax credit (ITC) to their beneficiaries.

On line 940, enter the beneficiary's share of the trust's investment in eligible property acquisitions or eligible expenditures. This amount, as calculated on Form T2038 (IND.), determines the amount of the investment tax credit available for designation to the beneficiary. The beneficiary's share should be recorded in box 40, "Investment eligible for ITC."

On line 941 (and in box 41), enter the share of the trust's investment tax credit from Form T2038 (IND.) that is designated to a beneficiary and not deducted by the trust on Trust Schedule 11, line 1120.

Insert the applicable code number from Form T2038 (IND.) in the footnote space on the T3 Supplementary. See "Completing the T3 Supplementary form" for more details.

Footnotes for line 930 (and box 30)
104(21.2)

If line 930 includes eligible taxable capital gains from qualified farm property or qualified small business corporation shares, a further calculation is required to determine the amount on line 930 (and in box 30) that is attributable to each type of property.

Use the following formula to calculate each beneficiary's share of **eligible taxable capital gains** from qualified farm property, qualified small business corporation shares, and other property.

$$(J) \frac{\text{_____}}{\text{_____}} \times (L) \frac{\text{_____}}{\text{_____}} = (M) \frac{\text{_____}}{\text{_____}}$$

(K) _____

- (J) = Positive amount from Trust Schedule 6, line 613, column 1, column 2, or column 3.
- (K) = Total of positive amount from Trust Schedule 6, line 613, column 4.
- (L) = Particular beneficiary's share of trust's eligible taxable capital gains (from chart above, at line 930, item (H)).
- (M) = Amounts for qualified farm property and qualified small business corporation shares to be shown as a footnote to box 30 on the particular beneficiary's T3 Supplementary. For instructions on completing the T3 Supplementary form, see guide item "Completing the T3 Supplementary form."

Enter the total of the amounts determined at (M) for qualified farm property in the appropriate space on Trust Schedule 9, footnotes for box 30.

Enter the total of the amounts determined at (M) for qualified small business corporation shares in the appropriate space on Trust Schedule 9, footnotes for box 30.

If line 613 (and line (M)) includes deemed taxable capital gains from the disposition of eligible capital property, show these amounts in footnotes for box 26 (and not in footnotes for box 30).

Note

You must complete a T3 Supplementary form for all amounts allocated or designated to a **resident** beneficiary, including a preferred beneficiary who elects to be taxed on accumulating income of the trust. See guide item "T3 Supplementary and T3 Summary" for more details on completing the T3 Supplementary and T3 Summary.

Trust Schedule 10
Lines 1001 to 1031
Calculation of Part XII.2 Tax and
Part XIII Non-Resident
Withholding Tax

Part A
Calculation of Part XII.2 tax and
refundable Part XII.2 tax credit
Lines 1001 to 1010
104, 210 to 210.3

A separate tax return has not been provided for Part XII.2 tax. Instead, Part XII.2 tax is calculated on Trust Schedule 10. Part XII.2 tax is payable within 90 days from the end of the trust's taxation year.

Part XII.2 tax does **not** apply to a trust that was throughout the year:

- a testamentary trust;
- a mutual fund trust;
- a trust that was exempt from tax under subsection 149(1) of Part I;
- a trust governed by a deferred income plan (described in subparagraph 108(1)(j)(ii));

- a communal organization;
- a non-resident trust.

Part XII.2 tax is levied when a trust has “specified income,” a “designated beneficiary,” and distributes (allocates or designates) any of its income.

Specified income

Specified income of a trust is the total of the following sources of income or losses:

- net income (loss) from businesses carried on in Canada;
- net income (loss) from real properties (land or buildings) located in Canada;
- net income (loss) from timber resource properties;
- net income (loss) from Canadian resource properties acquired by the trust after 1971; and
- taxable capital gains (allowable capital losses) from dispositions of property described as taxable Canadian property.

Note

Although the term “designated income” is used in Part XII.2 of the *Income Tax Act*, the term “specified income” has been substituted in this guide and on Trust Schedule 10 to avoid any confusion with “designated income” used in other parts of this guide.

Designated beneficiary 210

A designated beneficiary for the purpose of Part XII.2 tax includes a beneficiary who is:

- a non-resident person;
- a non-resident-owned investment corporation;
- a person exempt from Part I tax under subsection 149(1), if that person acquired an interest in the trust, directly or indirectly, from a beneficiary of the trust after October 1, 1987. (A person exempt from Part I tax is not a designated beneficiary if, after the later of October 1, 1987 and the creation of the trust, the interest was held continuously by a beneficiary exempt from tax by reason of subsection 149(1), or if the tax-exempt person is a trust governed by a registered retirement savings plan or registered retirement income fund, and the trust acquired its interest from its beneficiary or the beneficiary’s spouse); or
- a trust resident in Canada (other than a testamentary trust or trust exempt from tax under subsection 149(1)) or a partnership whose beneficiaries or members include a designated beneficiary.

A designated beneficiary is generally not entitled to the refundable tax credit for any Part XII.2 tax paid by the trust. This means that:

- Box 38 on the T3 Supplementary is generally **not** completed for a designated beneficiary who is a Canadian resident;
- and**
- before calculating Part XIII non-resident withholding tax, the income payable to a non-resident beneficiary

must be reduced by the non-resident’s share of the Part XII.2 tax. (See the comments under line 1009 below.)

Eligible beneficiary

Eligible beneficiary is a term used to identify a beneficiary, other than a designated beneficiary described above, and is generally a resident beneficiary.

An eligible beneficiary is entitled to a refundable Part XII.2 tax credit in proportion to the share of trust income allocated or designated to that beneficiary. An amount equal to the Part XII.2 tax credit must be included in the beneficiary’s income. The credit, in effect, replaces the income that the beneficiary would have received if the trust had not been required to pay Part XII.2 tax.

Line 1006

Total specified income

Line 1006 is the total of lines 1001 to 1005, and it represents the specified income of a trust. If line 1006 is negative, Part XII.2 tax does not apply.

Line 1007

Amount allocated or designated to beneficiaries

On line 1007, enter the total of the amounts from columns I and II, Trust Schedule 9, Part B, line 928. Line 1007 must then be reduced by the subsection 105(1) taxable benefit amount reported on line 44 of the T3 return.

Part XII.2 tax does not apply to the “value of other benefits to recipients” reported on line 44, or to the total amount in column III, Trust Schedule 9, Part B for accumulating income under a preferred beneficiary election.

In effect, the total on line 1007 represents the following provisions of the *Income Tax Act*:

- the subsection 104(6) deduction from trust income for the portion of the trust’s income that is distributed to resident and non-resident beneficiaries and included in their income;
- the subsection 104(30) deduction from trust income for the tax paid by the trust for the year under Part XII.2; and
- the subsection 104(13) and subsection 104(31) amounts to be included in the income of an eligible beneficiary from the trust.

Note

In effect, the trust withholds the Part XII.2 tax from income distributed to the beneficiaries. This way, beneficiaries pay a share of the tax in proportion to the income originally allocated or designated to them, with the provision that eligible beneficiaries will receive refundable tax credits on their share of the tax. The purpose of the Part XII.2 tax is to ensure that designated beneficiaries pay their share of taxes on specified income. The total of Parts XII.2 and XIII taxes is approximately equal to the Part I tax plus provincial or territorial taxes that would apply to specified income had it been earned directly by the designated beneficiaries.

Line 1008 Part XII.2 tax

The lesser of the amounts on line 1006 or 1007 multiplied by 36% is the amount of Part XII.2 tax payable by the trust. Enter this amount on line 83 on page 4 of the T3 return.

Calculate Part XII.2 tax for the year on the specified income at line 1006, unless the income distributed to the trust's beneficiaries after Part XII.2 tax is less than 64% of the trust's specified income for the year. In this case, calculate the Part XII.2 tax on an amount that is 100/64 of the income allocated or designated to beneficiaries (subsection 104(6) deduction) before calculating Part XII.2 tax. This grossed-up amount is equal to the amount on line 1007.

Note

Trust Schedule 10 does not provide for a third calculation contained in the *Income Tax Act* under paragraph 210.2(1)(b). Paragraph 210.2(1)(b) refers to the income of the trust after deducting the amount of its accumulating income included in a preferred beneficiary election, but before subsection 104(30) and subsection 104(6) deductions. This third amount has been eliminated from the calculation on Trust Schedule 10 because it would never be less than line 1007, which is the amount determined under paragraph 210.2(1)(c).

Line 1009 Adjustment for Part XIII tax purposes

Line 1009 calculates the amount of Part XII.2 tax attributable to designated beneficiaries. Enter the amount from line 1009 in Part B, onto line 1026, to reduce the income subject to Part XIII tax.

Line 1010 Part XII.2 refundable tax credit for eligible beneficiaries

Line 1010 is the amount of Part XII.2 tax attributable to eligible beneficiaries, and is the amount eligible for the Part XII.2 refundable tax credit for these beneficiaries.

If there is more than one eligible beneficiary, use the following formula calculation to determine the amount of refundable tax credit to be reported in box 38 of the T3 Supplementary for each beneficiary:

$$A \times \frac{B}{C}$$

where

A is the Part XII.2 tax payable by the trust, which is the amount from line 1008;

B is each beneficiary's share of the amount from line 1007, which is the trust income allocated or designated to the eligible beneficiaries; and

C is the total allocations or designations for the year, which is the entire amount from line 1007.

Example — Part XII.2

An inter vivos trust resident in Canada has two beneficiaries — Mr. Adam, a resident of Canada who is an **eligible** beneficiary, and Ms. Meg, a non-resident who is a **designated** beneficiary. Each beneficiary is

entitled to receive an equal share of the trust income which is distributed annually.

The net income of the trust for 1991 of \$1,400 represents:

- net business income of \$1,000; and
- interest income after related expenses of \$400.

On Trust Schedule 10, "Part A. Calculation of Part XII.2 Tax and Refundable Part XII.2 Tax Credit" you would:

- **enter** \$1,000 on lines 1001 and 1006 as there are no other sources of specified income (the \$400 interest is not specified income);
- **enter** \$1,400 on line 1007 as this is the total amount from columns I and II on Trust Schedule 9, Part B, line 928;
- **enter** the lesser of lines 1006 and 1007 (\$1,000) in the first blank space on line 1008;
- **calculate** 36% of \$1,000, and enter the result (\$360) in the second blank space on line 1008;
- **calculate** the amount that is not subject to Part XIII non-resident tax by completing the entries in the area for line 1009 (i.e., divide \$700 by \$1,400 and multiply by \$360), and enter the result (\$180) on line 1009, and in Part B on line 1026; and
- **calculate** the amount of refundable Part XII.2 tax credit on line 1010 by subtracting line 1009 from line 1008. Enter the result (\$180) on the T3 Supplementary in box 38.

Mr. Adam received \$520 but he will include \$700 (i.e., \$520 + \$180) in his income for the year. This amount, which will be entered on the T3 Supplementary in box 26, is the one-half (1/2) portion of the trust income that was to be distributed to him according to the terms of the trust agreement. On his T1 return for 1991, he will claim a refundable Part XII.2 tax credit of \$180.

Ms. Meg received \$520. This amount, which will be entered on the NR4B Supplementary, is the one-half (1/2) portion of the trust income that was to be distributed to her according to the terms of the trust agreement. On Trust Schedule 10, Part B the trust will reduce the total income paid or payable to non-resident beneficiaries (line 1020 - \$700) by the Part XII.2 tax (line 1026 - \$180). The difference (line 1028 - \$520) is the amount subject to non-resident tax.

Part B

Part XIII non-resident withholding tax Lines 1020 to 1031

Complete this part if the trust has allocated income to non-resident beneficiaries.

Line 1022 Amounts paid or payable other than capital distributions

Depending on the reconciliation made on line 1021, the amount on line 1021 would either be added to or subtracted from the amount on line 1020.

Line 1025**Amounts not subject to Part XIII tax — Other**

One example of an adjustment to be entered on this line is amounts paid or credited to a beneficiary resident in the United States, derived from income sources outside Canada which are not subject to withholding tax by virtue of the Canada — U.S. Tax Convention.

Line 1026**Part XII.2 tax amount**

The amount of Part XII.2 tax attributable to designated beneficiaries is deducted on this line.

Part XII.2 tax is deducted here because the total amount in column II on Trust Schedule 9, Part B, line 928 includes income under subsection 104(31) (i.e., the Part XII.2 tax) which is not subject to Part XIII tax.

Lines 1029 to 1031**Non-resident tax payable**

Complete the rest of this schedule with reference to the NR4B Summary for the trust.

Completing the NR4B Summary and NR4B Supplementary forms**Part XIII Tax, 212(1)(c)****Non-resident beneficiaries**

Every non-resident person must pay a Canadian income tax (non-resident tax) of 25% under Part XIII of the *Income Tax Act*, (unless a lower rate is provided by a tax treaty) on amounts paid or credited, or on amounts considered to be paid or credited by a Canadian trust to non-residents on account of income from the trust. The trustee must withhold tax on these amounts and remit this tax to us by the 15th day of the month following the month during which the tax was withheld.

Calculate the amount of non-resident tax payable and the balance due, if any, by following the steps on Trust Schedule 10, Part B. Any balance due should be sent to us accompanied by Form PD7AR-NR, which is a combined remittance statement and receipt. If you are remitting Part XIII tax for the first time, include with the payment your name and address, the type of payment (Part XIII tax), and the month during which the tax was withheld. When we receive the payment, we will issue a Form PD7AR-NR receipt, the top portion of which may be torn off and used for remitting future payments.

You must also complete Forms NR4B Summary and NR4B Supplementary. These forms are available from your district office.

For more information on non-resident income tax, obtain Information Circulars 76-12R4, *Applicable Rate of Part XIII Tax on Amounts Paid or Credited to Persons in Treaty Countries* and its Special Release, 77-16R3, *Non-resident Income Tax*, and Interpretation Bulletin IT-465R, *Non-resident Beneficiaries of Trusts*.

NR4B Summary

This is a summary of amounts paid or credited, or considered to be paid or credited to non-residents, and represents the total of amounts reported on the NR4B Supplementary form. Beginning in 1991, you do not have to withhold or report amounts on an NR4B Supplementary when the total of amounts paid or credited to a non-resident during the year is less than \$10. The total payments to non-residents should agree with the "Amount subject to non-resident tax" on Trust Schedule 10, Part B, line 1028. Total non-resident tax withheld on Form NR4B Summary should agree with the non-resident tax payable on Trust Schedule 10, Part B, line 1029.

NR4B Supplementary

Enter the year for which this form is being completed and report, as estate and trust income (code 11/box J), the total trust income totalling \$10 or more allocated to a non-resident beneficiary. The various income items (e.g., dividends) lose their identity when allocated to a non-resident beneficiary (except for taxable capital gains from a mutual fund trust), and are therefore totalled and reported as "estate or trust income" on the NR4B Supplementary.

Reporting forms

Beginning in 1991, we have replaced reporting Forms NR4-NR4A Summary, and NR4 and NR4A Supplementaries with two new reporting forms.

The new forms are the NR4B Summary and the NR4B Supplementary. As an interim measure for 1991, we will allow payers and disbursing agents who cease business in 1991 to file their **final returns** using reporting Forms NR4-NR4A Summary, and NR4 and NR4A Supplementaries.

Also **testamentary trusts** whose 1991 taxation year ends before December 31, 1991 may file using the old NR4-NR4A Summary, and NR4 and NR4A Supplementaries.

Guide for Payers of Non-Resident Tax

We have prepared a new guide for payers of non-resident tax to explain how to complete the NR4B return. This guide also outlines procedures for reporting amounts paid or credited to non-residents of Canada for 1991. The *Guide for Payers of Non-Resident Tax* is available at the International Taxation Office at 875 Heron Road, Ottawa, Ontario, K1A 1A8 or at your local district taxation office.

Distributing the NR4B Supplementary form Regulation 202(8)

Copies 1 and 2: Within 90 days from the end of the trust's taxation year, send **with** copies 1 and 2 of the NR4B Summary to:

International Taxation Office
875 Heron Road
Ottawa, Ontario
K1A 1A8.

Copies 3 and 4: Within 90 days from the end of the trust's taxation year, send to the beneficiary's last known address.

Copy 5: Keep with trust records.

Trust Schedule 11 Lines 1101 to 1130 Calculation of Federal Income Tax 122

Line 1101

Testamentary trusts

All testamentary trusts are taxed using the "1991 rates of federal income tax" for individuals.

The individual rates also apply to an inter vivos trust (other than a mutual fund trust) that meets all of the following conditions:

- it was established before June 18, 1971;
- it was resident in Canada on June 18, 1971 and without interruption thereafter until the end of 1991;
- it did not carry on any active business in 1991;
- it has not received any property by way of gift since June 18, 1971; and
- it has not, after June 18, 1971, incurred any debt or obligation to pay an amount to, or guaranteed by, any person with whom any beneficiary of the trust was not dealing at arm's length.

Inter vivos trusts meeting these conditions are referred to as "grandfathered inter vivos trusts." For more details, see Interpretation Bulletin IT-406R2, *Tax Payable by an Inter Vivos Trust*.

Line 1107

Inter vivos trusts

An inter vivos trust is taxed at 29% of its taxable income if it does **not** meet all of the conditions listed under line 1101 above.

Line 1109

Tax adjustments ITAR 40 provision

This line is used when adding to the trust's tax such items as the reduced tax that applies on lump-sum payments under ITAR 40. You do have to enter an amount on this line. Specify ITAR 40 on this line and on line 02 on page 2, and we will calculate your tax adjustment. Attach any information slips received.

Line 1111

Federal dividend tax credit 121

Enter on this line, the amount of the federal dividend tax credit that the trust may claim on dividends received in the 1991 taxation year.

The dividend tax credit is 66.67% (2/3) of the gross-up amount calculated on Trust Schedule 8, Part B, line 824.

Line 1112

Charitable donations 118.1 or 104(6)

Testamentary trust

- If the donation is a one-time payment provided for in the deceased taxpayer's will, the donation must be claimed on the deceased taxpayer's T1 return either in the year of death, or in the year preceding the year of death. We will reassess the T1 returns if necessary, to allow the claim.

- If the donation is not a one-time payment but will continue according to the terms of the will, the charity is treated as an income beneficiary, and the donation is deducted as an allocation of trust income on the T3 return (page 2, line 47 and Trust Schedule 9, Part B, line 926).
- If the will provides that a donation may be made at the discretion of the trustee, the trustee has the choice of treating the charity as an income beneficiary and deducting the amount on line 47, or claiming a non-refundable tax credit on Trust Schedule 11, line 1112.

When a donation is being claimed on the T3 return, either as an income allocation or for a non-refundable tax credit, the trustee should state in the T3 return whether the donation is a one-time or periodic payment provided in the will, or is made at the discretion of the trustee.

Inter vivos trust

- If the charity is an income beneficiary according to the trust agreement, the donation is deducted as an allocation of trust income on the T3 return (page 2, line 47 and Trust Schedule 9, Part B).
- In all other cases, a non-refundable tax credit will be calculated on the amount of the donation on Trust Schedule 11, line 1112.

All donation claims must be accompanied by an official receipt.

There are three classes of donations:

1. Charitable. Please see the T1 *General Tax Guide* for types of organizations that are included in this class.
2. Gifts to Canada, province or territory.
3. Gifts of cultural property. Attach both the official receipt from the institution and certificate T871 issued by the Canadian Cultural Property Export Review Board.

Maximum claim and carry over

When the non-refundable tax credit method is used, the maximum claim in a year for charitable donations, referred to in item 1 immediately above, is limited to 20% of the net income of the trust, line 50. The 20% limit does not apply to gifts referred to in items 2 or 3 above. The trust may choose to claim any portion of its total donations up to the maximum limit. Any unused portion can be carried forward for five years.

Pending legislation — Tabled May 30, 1991, effective for 1990 and subsequent taxation years

A communal organization that made charitable donations may choose not to claim its donations. However, it may elect to designate its donations to beneficiaries in the same proportion that it elected to allocate income to those beneficiaries.

Line 1113

Minimum tax carryover from previous year 120.2

If the trust paid minimum tax in the 1986 to 1990 taxation years, part or all of that amount can be deducted from 1991 taxes payable. The following table is provided to help you calculate the claim. Attach a copy of your calculation to the T3 return if the trust is claiming a minimum tax carryover.

Calculation of minimum tax carry-over**Minimum tax carry-over from previous years which can be applied in 1991**

Minimum tax carry-over available
(from 1990 Trust Schedule 12, line 1269
or 1990 Appendix C, line (J)) _____ (A)

Tax payable immediately
before minimum tax
carry-over (1991 Trust
Schedule 11, line 1110) _____ (B)

Subtract:

Federal
dividend tax
credit _____ (C)

Charitable
donations and
gifts _____ (D)

Subtotal (add
lines (C)
and (D)) _____ > _____ (E)

Subtract
line (E) from
line (B) _____ (F)

Subtract:

Minimum amount (from 1991
Trust Schedule 12, line 1232) _____ (G)

Maximum amount of minimum tax carry-over which can be applied in 1991

Subtract line (G) from
line (F) _____ (H)

Minimum tax carry-over from previous year, applied in 1991

Claim an amount not exceeding the lesser
of (A) or (H) (Enter this amount on Trust
Schedule 11, line 1113) _____ (I)

Minimum tax carry-over available for 1992

Subtract line (I) from line (A) _____ (J)

Include a copy of this calculation with the T3 return when
claiming a minimum tax carry-over. If there is a balance,
be sure to keep a copy for your records.

Line 1116**Surtax on income not subject to provincial or territorial income taxes 120(1)**

Canadian resident trusts that carry on business through a permanent establishment in a foreign country have to pay a federal surtax of 52% of their basic federal tax attributable to the income earned in the foreign country.

Non-resident trusts that carry on business through a permanent establishment in Canada have to pay provincial tax on the income earned in the province or territory and not the federal surtax. Non-resident trusts that carry on business in Canada without a permanent establishment in Canada may have to pay the federal surtax on the Canadian business income if the income is not exempt from Part I tax in Canada by virtue of an income tax treaty.

Form T2203, *Calculation of Tax in Respect of Multiple Jurisdictions* and Form T691A, *Minimum Tax Supplement — Multiple Jurisdictions* are available to assist you with the above calculations.

Line 1118**Federal foreign tax credit 126, 20(12), (11)**

This credit is for foreign income or profit taxes paid to a government of a country other than Canada on income earned outside Canada. In general, the foreign tax credit that may be claimed for each foreign country cannot exceed the lesser of:

- the tax actually paid to a foreign country; and
- the tax payable to Canada on the portion of income earned in the foreign country.

A separate foreign tax credit calculation is necessary for each foreign country. In addition, separate calculations are required for "business income taxes" and "non-business income taxes" paid to a foreign country.

When the total of all business income taxes and non-business income taxes paid to foreign countries is more than the total amount allowed as a foreign tax credit, the excess, or a portion thereof, may be deducted on Trust Schedule 11, line 1125 as an "Additional federal foreign tax credit" when computing the "Individual surtax payable" amount on Trust Schedule 11, line 1128. For details of all these calculations, obtain Form T2209.

If an excess amount of foreign business income tax, commonly referred to as "unused foreign tax credit" still remains, it may be applied back to the three immediately preceding years, or carried forward to the seven years immediately following the current year to the extent allowed for those years. Attach a note to the T3 return explaining the amount of unused foreign tax credits being applied to other years.

The excess of any foreign non-business income tax may not be carried forward. Some or all of the excess may be claimed as a provincial foreign tax credit on Form T2036, as a deduction on line 40, page 2 of the T3 return, or as an additional foreign tax deduction against the individual surtax otherwise payable, as stated previously.

Attach proof of payment of tax paid to a foreign country to the T3 return.

When calculating the foreign tax credit, express all amounts in Canadian currency. For more details, obtain Interpretation Bulletins IT-270R2, *Foreign Tax Credit* and IT-201R, *Foreign Tax Credit — Trust and Beneficiaries*.

When completing Form T2209, please note that the calculation of the credit is based only on amounts retained by the trust. Exclude all amounts relating to the designation of foreign income and foreign tax credits to beneficiaries. Enter the amount from Part I, line (H) of completed Form T2209 on Trust Schedule 11, line 1118.

Line 1119**Federal political contribution tax credit 127(3)**

A portion of contributions to registered federal political parties or candidates at an election to the House of

Commons may be deducted from taxes. Attach proof of payment to the T3 return. This must be an official receipt signed by the registered agent of the registered party, or by the official agent of the candidate.

The allowable credit is calculated as follows:

Total federal political contributions (receipts necessary)	\$ _____
Allowable credit:	
75% of first \$100 of total federal political contributions	_____
50% of next \$450 of total federal political contributions	_____
33 1/3% of amount of total federal political contributions, over \$550	_____
Total allowable credit — (maximum \$500)	\$ _____

Enter the allowable credit amount on Trust Schedule 11, line 1119, "Federal political contribution tax credit."

Line 1120 Investment tax credit

127(5), (12.3), 37(1), 13(7.1)

A trust may earn investment tax credits on eligible properties and expenditures that are listed on Form T2038 (IND). Investment tax credits can be earned, for example, on certain buildings, machinery, or equipment to be used in Canada in farming, fishing, logging, or manufacturing.

Attach a completed copy of Form T2038 (IND) to the T3 return if:

- an investment tax credit (ITC) is earned in 1991; or
- a credit is being carried forward; or
- a credit is being carried back to previous years; or
- a refundable investment tax credit is claimed in 1991 (on line 88, page 4 of the T3 return).

The cost of eligible properties or expenditures must be reduced by a portion of the credit deducted, or refunded. The reduction takes place:

- in the year following the year in which the credit is claimed; or
- in the year following the year the asset is acquired:
 - if the claim or refund is made in the year of acquisition; or
 - if the claim is applied back to a previous year.

For example, the capital cost of property is reduced in 1992 by any ITC which is earned in 1991, and which is claimed or refunded on the 1991 return, or applied back to a previous year (1986 to 1990).

Investment tax credits, calculated on eligible property acquired or an eligible expenditure made by a trust before 11.00 A.M. EDT October 3, 1986, could be retained by the trust and claimed against its federal tax payable, or these credits could be designated to the beneficiaries. After that

time, only testamentary trusts or communal organizations may designate an ITC to beneficiaries. All or part of the ITC, which is designated according to the terms and conditions of the trust or by choice of the trustee, should be included on Trust Schedule 9, Part B, line 941, and must be excluded when computing the ITC of the trust for the taxation year. The amount of any investment tax credit designated to beneficiaries reduces the cost of the qualified property acquisitions or expenditures of the trust in the taxation year of the designation.

Prepare a separate T3 Supplementary form for each designation to beneficiaries for eligible expenditures in the different regions, if the investment tax credit rates differ. A beneficiary could therefore have more than one T3 Supplementary from the same trust.

For more details in this area, see the 1991 *Business and Professional Income Tax Guide*; the 1991 *Farming Income Tax Guide* or the 1991 *Fishing Income Tax Guide*; Interpretation Bulletin IT-331R, *Investment Tax Credit* and Information Circular 78-4R3, *Investment Tax Credit Rates* and its Special Release dated November 13, 1987.

Line 1121 Other credits

The logging tax credit (S.S. 127(1)) is an example of an amount that may be claimed on this line.

Note

Minimum tax — For situations in which the trust may have to pay minimum tax and to complete Trust Schedule 12 instead of continuing on Trust Schedule 11, refer to guide item, "Trust Schedule 12, Calculation of Minimum Tax."

Lines 1124 to 1128 Individual surtax payable 180.1

Trusts that are liable to pay tax under Part I of the *Income Tax Act* for a taxation year must pay an individual surtax of 5%, calculated on the following amounts:

1. For a trust other than a mutual fund trust:
 - The basic federal tax on Trust Schedule 11, line 1115 or, if subject to minimum tax, on Trust Schedule 12, line 1242.
2. For a mutual fund trust:
 - The basic federal tax on Trust Schedule 11, line 1115 minus the least of the amounts (a), (b) and (c) on Form T184.

Pending legislation — Tabled May 30, 1991, effective for 1991 and subsequent taxation years

An additional 5% surtax is applied on the **amount** by which the amounts described in 1 or 2 above exceed \$12,500 (previous surtax was at the rate of 3% on amounts over \$15,000).

If the trust is entitled to claim a federal foreign tax credit or an investment tax credit, it may be able to reduce its individual surtax by the unused portion of these credits.

Line 1125**Additional federal foreign tax credit**

The additional federal foreign tax credit (FFTC), calculated on Form T2209, is subtracted from the surtax calculated above.

To complete Form T2209, Part II, use the following instructions:

- If the amount determined on line (i) of the special foreign tax credit calculation on Trust Schedule 12 is more than the amount on line E from Part I of Form T2209, no additional federal foreign tax credit is available to reduce the individual surtax payable. Enter zero on Trust Schedule 11, line 1125, or if the trust is subject to minimum tax, on Trust Schedule 12, line 1251.
- If an additional federal foreign tax credit is available to reduce the individual surtax payable, enter the amount determined on Form T2209, Part II, area F on Trust Schedule 11, line 1125, or if the trust is subject to minimum tax, on Trust Schedule 12, line 1251.

Line 1127**Additional investment tax credit**

Calculate the additional investment tax credit to be deducted from the individual surtax payable on Form T2038 (IND), section II.

The individual surtax may be reduced by the lesser of:

- unused investment tax credit determined on line E of Form T2038 (IND); and
- three quarters (3/4) of the amount (line 1126 on Trust Schedule 11, or line 1252 on Trust Schedule 12) by which the individual surtax otherwise payable exceeds the additional federal foreign tax credit calculated above.

Line 1130**Refundable Quebec abatement 120(2)**

A trust is entitled to the maximum abatement of 16.5% of its "basic federal tax" if it was resident in the province of Quebec on the last day of its taxation year, and it did not have income from a business with a permanent establishment outside Quebec.

The abatement is refundable and is provided in lieu of direct cost-sharing by the federal government under federal-provincial fiscal arrangements.

Obtain Form T2203 from your district office to calculate the refundable Quebec abatement if:

- the trust was a resident in Quebec and had income from a business with a permanent establishment outside Quebec; or
- the trust resided outside of Quebec and had income from a business with a permanent establishment in Quebec.

Trust Schedule 12
Lines 1201 to 1269
Calculation of Minimum Tax
127.5 to 127.55

The following trusts are not subject to minimum tax:

- a mutual fund trust;

- a related segregated fund trust;
- a trust that made an election in the taxation year under the block-averaging provisions of Section 119 of the *Income Tax Act*.

Pending legislation — Tabled May 30, 1991, effective for 1986 and subsequent taxation years

The following trusts are also not subject to minimum tax:

- A post-1971 spousal trust in the taxation year of the beneficiary spouse's death. This exemption for a spousal trust applies to a testamentary trust when the spouse died after December 31, 1971, or to an inter vivos trust created after June 17, 1971.
- A tainted pre-1972 spousal trust if the beneficiary spouse died before February 12, 1991.

Any other trust is liable to pay a minimum tax if the net minimum tax payable (Trust Schedule 12, line 1234) exceeds the regular tax payable (Trust Schedule 12, line 1237). Any of the following conditions may attract minimum tax for 1991:

- Taxable dividends are reported; (on page 2, line 03)
- Taxable capital gains are reported; (on page 2, line 01)
- An election is made under ITAR 40 on pension benefits; (on page 2, line 02 and on Trust Schedule 11, line 1109)
- A loss is claimed resulting from, or increased by, capital cost allowance (CCA) on the rental of:
 - Multiple-unit residential buildings (MURBs) (on page 2, line 09);
 - Certified films or videotapes (on page 2, line 06); or
- A loss is claimed resulting from, or increased by, resource and depletion allowances on resource properties (on page 2, line 06 or 19).

Complete Trust Schedule 12 to determine the net adjusted taxable income for minimum tax. Basically, Trust Schedule 12 recalculates taxable income by:

adding back the following amounts:

- non-taxable portion of capital gains minus an amount equivalent to capital gains designated or allocated to beneficiaries; and
- certain deductions including losses caused by capital cost allowances;

and **deducting**:

- a basic exemption up to \$40,000, allowed to testamentary trusts and to grandfathered inter vivos trusts (see guide item, "Trust Schedule 11, Line 1101, Testamentary Trusts.");
- gross-up amount of dividends retained by the trust; and
- non-deductible portion of business investment loss (one third (1/3) of allowable business investment loss on line 25).

A tax rate of 17% is applied to the net adjusted taxable income amount, if any, and the result minus the charitable donations and gifts tax credit and the special foreign tax credit is compared to the regular federal tax payable.

Explanations of certain lines are provided below.

Line 1203
Non-taxable portion of capital gains
retained in the trust 127.52(1)(d)

This amount would normally be equal to one third (1/3) of the taxable capital gains (unless realized on mortgage foreclosures and conditional sales repossessions) retained in the trust after designation or allocation of capital gains to beneficiaries.

An adjustment is required if either of the following relates to a disposition occurring before 1986, and is used in calculating the 1991 taxable capital gains on Trust Schedule 1:

- a capital gains reserve (on Trust Schedule 1, line 117); or
- a carry over of a listed personal property loss (on Trust Schedule 1, line 108).

To make the adjustment, use the following table.

Adjusted line 1203	
Calculation of non-taxable portion of capital gains reported and retained in the trust for 1991 (to exclude listed personal property (LPP) losses and capital gain reserves relating to dispositions of capital property before 1986).	
Taxable capital gains: an amount equal to 1/3 of line 119, Trust Schedule 1	_____ (A)
Add:	
LPP loss (1985 and previous dispositions) 1/4 of line 108, Trust Schedule 1*	_____ (B)
Reserve (1985 and previous dispositions) 1/4 of amounts in column 2, lines 210, 213 and 215, Trust Schedule 2	_____ (C)
Add lines (B) and (C)	_____ > _____ (D)
Add lines (A) and (D)	_____ (E)
Subtract:	
Reserve (1985 and previous dispositions) 1/4 of amounts in column 1, lines 210, 213 and 215, Trust Schedule 2	_____ (F)
Net taxable capital gains allocated/designated, Trust Schedule 9, Part B (1/3 of line 921)	_____ (G)
Subtotal (add lines (F), and (G))	_____ > _____ (H)
Total (subtract line (H) from line (E), enter this amount on Trust Schedule 12, line 1203. If amount is negative, show in brackets).	_____ (I)
* Use only the amount from line 108 that relates to 1985 and earlier dispositions of capital property.	

Line 1221
Taxable income

Enter on this line, the taxable income amount from line 56 on page 4 of the return. If you calculated a negative amount on line 56, enter the negative amount on line 1221.

Line 1222
Non-capital losses of other years USED IN
CURRENT YEAR 127.52(1)(i)(i)

Non-capital losses of other years, which are claimed on line 51, page 4 of the T3 return, may have to be reduced for minimum tax purposes if the loss occurred in a taxation year beginning after 1985. This reduction is the portion, if any, of the non-capital losses attributable to capital cost allowance claimed on MURBS, films certified by the Canadian Film and Videotape Certification office, resource expenditures, or resource and depletion allowances included in the loss claimed. The portion is added back on line 1222.

Line 1224
Net capital losses of other years USED IN
CURRENT YEAR 127.52(1)(i)(ii)

The net capital loss for minimum tax purposes is adjusted to reflect 100% of the capital losses (unless realized on mortgage foreclosures and conditional sales repossessions) from capital property dispositions occurring in taxation years beginning after 1985. Income for minimum tax purposes is adjusted to reflect the non-deductible portion of capital losses of other years used in the current year.

The amount to be entered on line 1224, is one third (1/3) of the net capital losses of other taxation years beginning after 1985 (except capital losses on mortgage foreclosures and conditional sales repossessions) claimed on line 52 in the current year.

Line 1226
Basic exemption — Minimum tax
122(2), 127.53

A basic exemption of \$40,000 is allowed to testamentary trusts and to those inter vivos trusts that were established before June 18, 1971 and that meet the conditions set out under subsection 122(2) of the *Income Tax Act*. (See guide item, "Trust Schedule 11, line 1101.")

The \$40,000 must be allocated among the trusts if more than one qualifying trust is formed from contributions by the same individual. (The following situation is an example of five trusts created by the same individual, Mr. Cee. Mr. Cee was divorced twice, and at the time of his divorces he set up trusts for his former spouses. In his will, Mr. Cee created three separate trusts, one for his grandchildren, one for his children and one for his current spouse.)

If minimum tax applies to any of the multiple trusts, an agreement signed jointly by each trustee should be filed with each of the trust returns showing the allocation of the \$40,000 exemption. See Question 1 on page 1 of the T3 return and the related guide item, "Question 1 (Identification area.)"

If we send a written notice to a trustee requiring such an agreement, and the agreement is not filed within 30 days, we may allocate the \$40,000 basic exemption to one or more of the qualifying trusts.

Lines 1248 to 1254 Individual surtax payable

Refer to guide item, "Trust Schedule 11, lines 1124 to 1128" for details.

Line 1256 Refundable Quebec abatement

Refer to guide item, "Trust Schedule 11, line 1130" for details.

Lines 1260 to 1269 Part VI. Calculation of additional taxes paid for minimum tax carry-over

Any additional tax payable by a trust, under the provisions relating to minimum tax, may be carried forward and deducted from the regular tax liability in subsequent years (Trust Schedule 11, line 1113).

Trust Schedules 13 and 14 Provincial or territorial tax payable

Canadian resident trusts

A trust is liable for provincial or territorial tax, at the rate applicable for the province or territory of residence, if it was a resident in a province (other than Quebec) or territory on the last day of its taxation year, and if it did not have income from a business with a permanent establishment outside the province or territory of residence.

Trust Schedule 13 provides space for calculating provincial income tax for Newfoundland, Prince Edward Island, Nova Scotia, New Brunswick and Ontario.

Trust Schedule 14 provides space for calculating provincial income tax for Manitoba, Saskatchewan, Alberta, British Columbia, and territorial income tax for the Northwest Territories and the Yukon.

The province of Quebec collects its own income tax. Therefore, a trust is not required to calculate provincial income tax on its federal tax return if the trust was a resident in the province of Quebec on the last day of its taxation year, unless it had income from a business with a permanent establishment in another province or territory.

If a trust resident in Canada has income during the year from a business, and if this business had a permanent establishment in a province other than the one in which the trust resided at the end of the taxation year, or in a country other than Canada, the trust must allocate its income to determine the liability for provincial or territorial income tax, or to determine federal surtax for income earned outside of Canada. Income from a business should be allocated for each province, territory or country outside Canada in which the business had a permanent establishment during the taxation year. In general, all other income is allocated to the province or territory in which the trust resided at the end of the taxation year. To make this calculation, obtain Form T2203, *Calculation of Tax in Respect of Multiple*

Jurisdictions and Form T691A, Minimum Tax Supplement — Multiple Jurisdictions.

A trust resident in a province (other than Quebec) or territory on the last day of its taxation year, having a federal foreign tax credit less than the tax paid to a foreign country should obtain Form T2036 from its district office to calculate any provincial or territorial foreign tax credit to which it may be entitled. Any credit is then applied against provincial or territorial income tax.

Non-resident trusts

A non-resident trust, carrying on a business through a permanent establishment in a province, is subject to provincial (or territorial) tax on the business income earned in that province.

A non-resident trust, carrying on a business in Canada without a permanent establishment in Canada, may be subject to the federal surtax (Trust Schedule 11, line 1116) on the Canadian business income if the income is not exempt from Part I tax in Canada by virtue of an income tax treaty.

Political contribution tax credit for Prince Edward Island, Nova Scotia, Manitoba, Alberta, British Columbia, Northwest Territories and the Yukon Territory

A trust may deduct from the taxes otherwise payable to the above provinces and territories a portion of amounts paid to:

- a registered political party of that province or territory;
- a registered constituency association of that province/territory; and/or
- a registered candidate seeking election to the legislature of that province/territory.

Proof of payment in the form of an official receipt signed by the chief financial officer of the registered party, constituency association, or candidate must be attached to this return.

The allowable credit is calculated for Prince Edward Island, Nova Scotia, Manitoba, British Columbia and Yukon Territory as follows:	
Total political contributions in the year	\$ _____
Allowable credit:	
75% of first \$100 of total contributions is	\$ _____
50% of next \$450 of total contributions is	_____
33 1/3% of total contributions exceeding \$550 is	_____
Total allowable credit (maximum \$500)	\$ _____*

For Alberta , the allowable credit is calculated as follows:	
Total Alberta political contributions in the year	\$ _____
Allowable credit:	
75% of first \$150 of total contributions is	\$ _____
50% of next \$675 of total contributions is	_____
33 1/3% of total contributions exceeding \$825 is	_____
Total allowable credit (maximum \$750)	\$ _____*

For Northwest Territories the allowable credit is calculated as follows:

Total Northwest Territories political contributions in the year	\$ _____
Allowable credit:	
100% of first \$100 of total contributions is	\$ _____
50% of total contribution exceeding \$100 is	_____
Total allowable credit (maximum \$500)	\$ _____*

* To obtain the tax credit, enter this amount on the applicable "political contribution tax credit" line on Trust Schedule 13 or 14.

Line 1345 Ontario tax reduction

If the trust is subject to minimum tax (from Trust Schedule 12), the trust is not entitled to claim an Ontario tax reduction on Trust Schedule 13, line 1345.

Line 1403 Net income tax (Manitoba)

The 2% tax on line 1403 is generally applied to an amount which is the net income of the trust determined on line 50 on page 2 of the T3 return. If foreign income, exempt from tax because of a tax convention, is deducted at line 54, then deduct the same amount from line 50, "Net income" before calculating the tax on line 1403. See "Line 1421" below.

Line 1415 Manitoba manufacturing investment tax credit 149

The Manitoba manufacturing investment tax credit was available for qualified property acquired after April 24, 1984 and before 1987. The total credit or any portion thereof may be retained by the trust to be claimed against its Manitoba tax payable, or it may be designated to the beneficiaries and claimed by them against their Manitoba tax payable. Any unused credit is subject to carry-over provisions.

To claim a carry-over of this credit from a previous year, obtain Form T86, *Manitoba Manufacturing Investment Tax Credit* from your district office. Attach a completed copy of Form T86 to the return. If the credit was retained by the trust, enter on Trust Schedule 14, line 1415, the amount to be claimed from Form T86.

If the credit is being designated to the beneficiaries, prepare T3 Supplementary forms indicating the designated credit amount in box 42, and "Man. mfg." in the type of credit area.

Line 1421 Saskatchewan flat tax

Before applying the 2% flat tax, reduce the net income amount from line 50 by any deduction claimed on line 54 for foreign income exempt from tax because of a tax convention. See "Line 1403" above.

Lines 1430 to 1432 Saskatchewan tax incentives

The Saskatchewan Tax Incentives Program which provided for different tax credits to Saskatchewan residents investing in targeted Saskatchewan industries was repealed effective December 31, 1989. The unused portion of the Saskatchewan livestock investment tax credit and the Saskatchewan livestock facilities tax credit can be carried forward and applied against net Saskatchewan tax payable during the next seven taxation years. Claim these unused tax credits on Trust Schedule 14, line 1430.

If a communal organization makes the appropriate election, the Saskatchewan livestock investment tax credit and the Saskatchewan livestock facilities tax credit may be designated to members (beneficiaries) of the communal organization. (Trust Schedule 9, lines 943 and 944).

Line 1444 Alberta royalty tax rebate

If, during 1991, the trust paid royalties or similar payments to the federal or a provincial government on account of production from oil or gas wells, bituminous sands, oil sands or coal deposits, it may qualify for the Alberta royalty tax rebate. To claim the rebate, you must complete Form T79, available from your district office, and attach it to the T3 return. The Alberta royalty tax rebate calculated on Form T79 is entered on Trust Schedule 14, line 1444.

The Alberta royalty credit (formerly the Alberta royalty tax credit) is, for 1991 and subsequent years, to be claimed by filing the appropriate forms with:

Alberta Treasury, Corporate Tax Administration
9811 — 109 Street
EDMONTON, Alberta
T5K 2L5.

You may obtain forms and a guide by contacting:

Tax Information Services
at the above address, or at
500, 620 — 7 Avenue, S.W.
CALGARY, Alberta
T2P 0Y8

or by phoning:

Edmonton (403) 427-0712
Calgary (403) 297-5200
Alberta Zenith 22143

Direct all technical inquiries to Interpretations and Appeals at the Edmonton address, telephone (403) 427-9425.

Line 1462 British Columbia royalty and deemed income rebate

To claim the British Columbia royalty and deemed income rebate, complete and attach Form T81, and enter the result on Trust Schedule 14, line 1462.

T3 Supplementary and T3 Summary

You must complete a T3 Supplementary form for all amounts allocated or designated to a resident beneficiary. If there is an election to report income by a preferred beneficiary, and income is also paid to the same beneficiary, it is preferable to complete two separate T3 Supplementaries, one for income with respect to the election, and the second for all other income.

Use the T3 Summary to record the totals of the amounts reported on all the related T3 Supplementaries. A T3 Summary is required even if you prepare only one T3 Supplementary.

Magnetic media filing

You also have the option of filing the T3 Supplementaries on magnetic tape, cartridge or diskette (magnetic media).

Magnetic media filers send one completed paper copy of the T3 Summary with their tape(s) or diskette(s) to us before the filing deadline. You do not have to submit the Department's paper copy of the T3 Supplementaries.

Anyone who would like to participate in the magnetic media filing program for the first time must submit a test tape or diskette for our approval. Send the test tape or diskette at least two months before the filing deadline. The tape or diskette must conform to the specifications for the year of filing, i.e., if the taxation year ends in 1991, use 1991 specifications.

For more details, obtain the booklet T4094, *1991 Computer Specifications for Data Filed on Magnetic Media — T3*. To obtain this booklet or to find out more about this method of filing, please write to:

Revenue Canada, Taxation
Ottawa Taxation Centre
Ottawa, Ontario
K1A 1A2
Attention: Magnetic Media Processing Unit
or telephone 1-800-665-5164.

Failing to provide information, including the social insurance number (SIN)

- **Trustee (issuer)** — An issuer who has to prepare an information return must make a reasonable effort to get the information from individuals for whom they are preparing supplementaries. Each time the issuer does not show the required information on a supplementary, the issuer is liable to a \$100 penalty, unless the issuer has made a reasonable effort.

If an issuer has existing clients that have not yet provided their social insurance numbers, and they are preparing supplementaries on their behalf, they have to advise the clients of the consequences of failing to provide their SINs whenever they enter into a transaction that may require a supplementary being prepared.

The penalty will not apply if an individual has applied for but has not received the SIN when the return is filed.

Any person under 18 years of age at the end of the year to which the return relates does not have to provide a

SIN if that person's total income for the year is expected to be \$2,500 or less.

- **Beneficiary (recipient)** — Individuals resident or employed in Canada have to give their SIN on request to any person who has to prepare an information return on their behalf. If they do not have a SIN, they have to apply for one at the nearest Canada Employment Centre within 15 days of the day the information-slip preparer asked for the SIN. When that person receives the SIN, he or she then has 15 days to give the SIN to the information-slip preparer. Individuals who, for any reason, do not comply with these requirements are liable to a penalty of \$100 for each failure.

For more details, see Information Circular 82-2R, *Social Insurance Number Legislation as it Relates to the Preparation of Information Slips*.

Prohibited use of the social insurance number

Any person that has to make an information return cannot **knowingly** use, communicate, or allow to be communicated a SIN without that individual's written consent for any purpose other than that for which it was provided under the *Income Tax Act* or Regulations.

People who contravene this provision are guilty of an offence, and are liable on summary conviction to:

- a fine not more than \$5,000;
- imprisonment for a term of up to 12 months; or
- both a fine and imprisonment.

Completing the T3 Supplementary form

Trust Schedule 9, Part B, lines 921 to 927, provides a summary of the income allocations or designations to be entered in boxes 21 to 27. Part C, lines 930 to 944 provides a summary of other amounts designated that are to be entered in boxes 30 to 42.

If tax was deducted on information slips received by the trust, this tax cannot be used to reduce the amount of income allocated to a beneficiary on the T3 Supplementary form. See guide item, "Line 86" for further information.

Please type or print the information on the T3 Supplementary.

Trust year ending — Be sure to enter the fiscal year end of the trust for which the T3 Supplementary is being prepared. The month should be written in numeric form. For example if the fiscal year (taxation year) ends in November 1991, enter "1991" and "11" in the spaces provided for the year and month.

*Box 21

For the 1991 and subsequent taxation years, enter 4/3 times the amount of any net taxable capital gains (excluding deemed taxable capital gains from eligible capital property reported in box 26) designated to a beneficiary from Trust Schedule 9, Part B, line 921.

Be sure to complete box 30, with the designated portion of the trust's eligible taxable capital gains for purposes of the beneficiary's capital gains deduction.

If box 21 includes capital gains from qualified farm property or qualified small business corporation shares, these amounts must be identified to enable the beneficiary to claim the higher capital gains deduction on these dispositions. Put an asterisk (*) beside the amount in box 21. In the footnote space, below boxes 41 and 42, write "qualified farm property" or "qualified small business corporation shares," as applicable. In addition, show the amounts included in box 21 and box 30 that relate to the disposition of this property.

See guide item, "Trust Schedule 9, Line 921" and "Footnotes for line 921," for further details.

Box 22

Enter the amount of pension benefits that qualify for paragraph 60(j) transfer to a registered pension plan or registered retirement savings plan, designated to the beneficiary on Trust Schedule 9, line 922. Refer to Trust Schedule 7, "Pension Income Allocations/Designations" for more details.

Box 23

Enter the designated portion of the actual amount of taxable dividends received from taxable Canadian corporations from Trust Schedule 9, line 923.

Box 24

Enter the designated portion of the gross foreign business income from Trust Schedule 9, line 924.

Box 25

Enter the designated portion of the gross foreign non-business income from Trust Schedule 9, line 925.

***Box 26**

Enter the amount of all other income transferred to a beneficiary that is not recorded in boxes 21 to 25 and box 27.

Include deemed taxable capital gains from the disposition of eligible capital property, if any. Put an asterisk (*) beside the amount in box 26. In the footnote space below boxes 41 and 42, write: (a) a description of the property, e.g., "eligible capital property — qualified farm property" or "eligible capital property — other;" (b) the taxable amount, and (c) the amount that qualifies for the capital gains deduction.

Box 27

Enter the amount of farming or fishing income designated to the beneficiary on Trust Schedule 9, line 927 that qualifies for a section 119 election under block-averaging provisions.

***Box 30**

For 1990 and subsequent taxation years, enter 4/3 times the designated portion of the trust's eligible taxable capital gains (excluding deemed taxable capital gains from eligible capital property reported in box 26) for the purpose of the beneficiary's taxable capital gains deduction. If box 21 includes gains from qualified farm property or qualified small business corporation shares, put an asterisk in box 30, and in the footnote space below boxes 41 and 42, show the amount from these dispositions that qualifies for the capital gains deduction.

See guide item, "Trust Schedule 9, line 930" and "Footnotes for line 930," for further details.

Box 31

Enter pension amounts transferred to the spouse (or common-law spouse) of the deceased that qualify for the pension income non-refundable tax credit. This amount is included in the beneficiary's income in box 22 or box 26.

Box 32

Enter the taxable amount of dividends from a taxable Canadian corporation — 1.25 (5/4) times the actual amount reported in box 23.

Box 33

Enter the designated portion of the foreign business income tax paid which is based on the amount in box 24.

Box 34

Enter the designated portion of the foreign non-business income tax paid which is based on the amount in box 25.

Box 35

Enter the amount of death benefits designated to the beneficiary. See guide item, "Trust Schedule 9, line 935." This amount is also included in box 26.

Box 36

Report in this box any of the following amounts: pension income that is eligible for paragraph 60(l) transfer to an annuity for certain minors (from Trust Schedule 7), a retiring allowance which qualifies for paragraph 60(j.1) transfer to a registered pension plan or registered retirement savings plan, or charitable donations designated to the beneficiary of a communal organization. Provide details in the footnote space. If more than one of these items is being designated to a beneficiary, prepare a separate T3 Supplementary for each item.

Box 37

Enter 4/3 times the amount of allowable capital losses from insurance segregated fund trusts.

Box 38

Enter the portion of the Part XII.2 tax credit that is designated to the beneficiary. See guide item, "Trust Schedule 10, Part XII.2 Tax."

Box 39

Calculate and enter the federal dividend tax credit that is 13.33% of the taxable amount in box 32.

Box 40

Report the portion of the trust's investment on which the beneficiary's share of the investment tax credit is based. (See Trust Schedule 9, line 940 and Trust Schedule 11, line 1120).

Box 41

Report the beneficiary's share of the investment tax credit designated. See the "Calculation of investment tax credit" area on Form T2038 (IND), and insert the applicable code in the footnote space under box 41. (See Trust Schedule 9, line 941 and Trust Schedule 11, line 1120).

Box 42

This box is available to report each beneficiary's portion of the following credits designated. Enter the type and amount of:

- Manitoba manufacturing investment tax credit (Man. Mfg.) designated. (Trust Schedule 9, line 942). See guide item, "Trust Schedule 14, line 1415."

- Saskatchewan livestock investment tax credit (SLITC) designated. (Trust Schedule 9, line 943). See guide item, "Trust Schedule 14, lines 1430 to 1432."
- Saskatchewan livestock facilities tax credit (SLFTC) designated. (Trust Schedule 9, line 944). See guide item, "Trust Schedule 14, lines 1430 to 1432."

When more than one credit is designated to a beneficiary, prepare separate T3 Supplementaries for each credit. **These three credits are the only credits you may include in box 42.**

Box 12

Enter the beneficiary's **social insurance number (SIN)** in this box.

Box 14

Space is provided on the T3 Supplementary for a trust account number. If the trust has been assigned an account number, enter it here. Otherwise, leave this box blank until we give you the number.

Box 16

Enter one of the following report codes in this box. This code will help us to determine if this is the original T3 Supplementary issued to the beneficiary, or if it is an amendment to the original.

Enter	If
0	the original supplementary
2	an amended supplementary
4	an additional supplementary
5	this supplementary cancels the original slip

If you use code 2, enter all the financial data the same as you did on the original T3 Supplementary, except for the boxes that are being changed.

If you use code 5, please complete all boxes on the cancelled T3 Supplementary exactly the same as on the original.

If you issue a T3 Supplementary to replace the one lost by the beneficiary, you **do not have** to send us a copy. Clearly print the word "DUPLICATE" at the bottom of the replacement supplementary you give to the beneficiary, and enter code 0 in box 16.

If you use codes 2, 4 or 5, you must file an amended T3 Summary, T3 return and Trust Schedule 9 reflecting the changes. Clearly print the word "AMENDED" at the top of these amended forms.

Box 18

Enter one of the following beneficiary codes to identify the type of beneficiary:

Enter	If the beneficiary is
1	an individual
2	a joint account
3	a corporation
4	an association, a trust (fiduciary, trustee, nominee or estate), a club, or partnership
5	government, government enterprise, or international organization

Footnote space

If more than one box requires an explanation in the footnote space under boxes 41 and 42, prepare a separate statement

and attach one copy of the statement to each copy of the T3 Supplementary.

*Additional instructions for boxes 21, 26 and 30.

1. If the amount in box 30 is less than the amount in box 21, or if less than the full amount of the deemed taxable capital gain from box 26 is eligible for the capital gains deduction, advise the beneficiary to recalculate Schedule 3 for purposes of the capital gains deduction, and to use the lesser amounts from box 30 and box 26 to prepare Form T657 or Form T657A.
2. The trustee has to give the beneficiary additional instructions if designating capital gains from:
 - qualified farm property — Boxes 21 and 30;
 - qualified small business corporation shares — Boxes 21 and 30;
 - eligible capital property-qualified farm property — Box 26;
 - eligible capital property-other — Box 26.

Box 21 — Inform each beneficiary that if an (*) appears in box 21, that part of the amount in box 21 is a capital gain from the disposition of qualified small business corporation shares or qualified farm property. (The beneficiary reports the amounts on the T1 Schedule 3, line 513 or line 516, as applicable. The beneficiary will report on Schedule 3, line 533, any amount from box 21 not reported on lines 513 and 516.)

Box 26 — Inform each beneficiary that if an * appears in box 26, that part of the amount in box 26 is either a deemed taxable capital gain from "eligible capital property — other" to be reported on the T1 Schedule 3, line 544; or a deemed taxable capital gain from "eligible capital property — qualified farm property," to be reported on Schedule 3, line 543. (The beneficiary will report on line 130 of the T1 return, any amount not reported on Schedule 3, lines 543 and 544.)

Box 30 — Inform each beneficiary that if an * appears in box 30, that part of the amount in box 30 should be entered as a capital gain from the disposition of qualified small business corporation shares or qualified farm property when recalculating Schedule 3 for purposes of the capital gains deduction on Forms T657 or T657A (as in item 1, above).

Distributing the T3 Supplementary form

- Copy 1: Send to us, with the T3 Summary, within 90 days from the end of the trust's taxation year. For addresses and more details on filing requirements, see "Basic information" at the front of this guide.
- Copies 2 and 3: Send to the beneficiary's last known address within 90 days from the end of the trust's taxation year.
- Copy 4: Keep with the trust records.

Example — T3 Supplementary

The trust has the following income and deductions:

Dividends from taxable Canadian corporations

Box 23 — Actual amount	\$ 1,000.00
Box 32 — Taxable amount	1,250.00
Box 39 — Federal dividend tax credit	166.67

Capital gains

Box 21 — Capital gains	\$ 10,000.00
Box 30 — Capital gains eligible for deduction	\$ 9,000.00

Farming/fishing income

Box 27 — Net amount	\$ 2,500.00
---------------------------	-------------

Other income

Interest income	\$ 2,000.00	
Less: Carrying charges	<u>200.00</u>	\$ 1,800.00
Rental income (net)		2,000.00
Upkeep, maintenance		<u>500.00</u>
Box 26 — Other income		\$ 4,300.00

There is one resident beneficiary of the trust and all income is to be allocated or designated to the beneficiary. Complete the T3 Supplementary form as follows:

Trust Year Ending Year 1991	21 Capital Gains 10,000.00 Gains en capital	22 Pension Benefits Prestations de pension	23 Actual Amount Dividends - TCC 1,000.00 Montant réel dividendes de CCI	24 Foreign Business Income Revenu étranger tiré d'entreprises	25 Foreign Non-Business Income Revenu étranger non tiré d'entreprises	26 Other Income 4,300.00 Autres revenus	27 Farming/Fishing Income 2,500.00 Revenu de pêche/ d'agriculture
Année	30 Capital Gains Eligible for Deduction 9,000.00 Gains en capital admissibles pour déduction	31 Eligible Pension Income Revenu de pensions admissible	32 Taxable Amount Dividends - TCC 1,250.00 Montant imposable dividendes de CCI	33 Foreign Business Income Tax Paid Imp. étranger payé sur rev. tiré d'entreprises	34 Foreign Non-Business Income Tax Paid Imp. étranger payé sur rev. non tiré d'entreprises	35 Death Benefits Prestations consécutives au décès	36
Month Dec.	37 Insur. Segregated Fund Losses Pertes sur fonds réservés d'assureur	38 Part XII.2 Tax Credit Crédit d'impôt Partie XII.2	39 Federal Dividend Tax Credit - TCC 166.67 Crédit d'impôt fédéral pour dividendes de CCI	40 Investment Investissement	41 Tax Credit Crédit d'impôt	42 Type Genre	Amount Montant
Fin d'année de la fiducie	12 Social Insurance Number 123 456 789 T	14 Account Number Numéro de compte	16 Report Code Code de genre de feuillet	18 Beneficiary Code Code de bénéficiaire	Footnotes - Notes:		

BENEFICIARY: SURNAME FIRST, AND FULL ADDRESS
BÉNÉFICIAIRE: NOM DE FAMILLE D'ABORD, ET ADRESSE COMPLÈTE

NAME OF TRUST / MAILING ADDRESS OF TRUSTEE
NOM DE LA FIDUCIE / ADRESSE POSTALE DU FIDUCIAIRE

→ Beneficiary, John
100 8th Street
Anytown, Canada
T3T 3T3

Martin, William estate
c/o A. Trustee
100 C Street
Anytown, Canada
T3S 3T3

Completing the T3 Summary form

Identification

Be sure that the information entered in this area is the same as that entered on the *T3 Trust Income Tax Return and Information Return*.

Number of T3 Supplementaries issued

Enter the total number of T3 Supplementaries that will be filed with the T3 Summary.

T3 Supplementary totals

The line numbers on this return are the same as the box numbers on the T3 Supplementary. Enter on each line the total of the amount reported in the corresponding box on the related T3 Supplementaries.

Summary of footnote amounts

The footnote amounts are amounts that are included in boxes 21, 26 or 30 on the T3 Supplementary which are identified by an asterisk (*) and explained in the footnote space on the T3 Supplementary. Total these footnote amounts and enter them in the appropriate space on the T3 Summary.

Filing the T3 Summary form

Send to us, **with** copy 1 of the related T3 Supplementaries, within 90 days from the end of the trust's taxation year. For addresses and more information on filing requirements, see "Basic information" at the front of this guide. Addresses are also listed on the back of the T3 Summary form.

Keep a copy of the T3 Summary with the trust records.

If you are filing via magnetic media, you must submit a completed T3 Summary with your tape(s) or diskette(s).

Corrections, amendments and replacements

If you use codes 2, 4 or 5 in box 16 on the T3 Supplementaries, you must file an amended T3 Summary with revised totals. If applicable, you must also file an amended T3 return and Trust Schedule 9.

Clearly print the word "AMENDED" at the top of the amended Summary, T3 return and Trust Schedule 9.



T3 Summary

FOR DEPARTMENTAL USE ONLY

- To be completed if trust income was allocated / designated to a resident beneficiary, including by preferred beneficiary election, in the year.
- To be filed within 90 days from the end of the trust's taxation year.
- Attach copy 1 of the T3 Supplementaries to this summary.

IDENTIFICATION

Name of Trust		Account Number	
<input type="text"/>		T <input type="text"/>	
Name of Trustee / Executor / Administrator		Telephone Number	
<input type="text"/>		(<input type="text"/>)	
Mailing address of Trustee / Executor / Administrator			
<input type="text"/>			
Postal Code			No. of T3 Supplementaries filed
<input type="text"/>			10
Return for taxation year			
From	Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
To	Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

T3 SUPPLEMENTARY TOTALS

Summary of Income Allocated / Designated to Resident Beneficiaries, including by preferred beneficiary election		
Capital Gains	21	<input type="text"/>
Pension Benefits	22	<input type="text"/>
Actual Amount of Dividends - TCC	23	<input type="text"/>
Foreign Business Income	24	<input type="text"/>
Foreign Non-Business Income	25	<input type="text"/>
Other Income	26	<input type="text"/>
Farming / Fishing Income	27	<input type="text"/>
Summary of Other Amounts Designated to Resident Beneficiaries, including by preferred beneficiary election		
Capital Gains Eligible for Deduction	30	<input type="text"/>
Eligible Pension Income	31	<input type="text"/>
Taxable Amount of Dividends - TCC	32	<input type="text"/>
Foreign Business Income Tax Paid	33	<input type="text"/>
Foreign Non-Business Income Tax Paid	34	<input type="text"/>
Death Benefits	35	<input type="text"/>
MISCELLANEOUS AMOUNTS IN BOX 36		
Pension Income Eligible for 60 (i) Transfer	36-1	<input type="text"/>
Retiring Allowance Eligible for 60 (j.1) Transfer	36-2	<input type="text"/>
Charitable Donations	36-3	<input type="text"/>
Insurance Segregated Fund Losses	37	<input type="text"/>
Part XII.2 Tax Credit	38	<input type="text"/>
Federal Dividend Tax Credit - TCC	39	<input type="text"/>
Investment for ITC	40	<input type="text"/>
Investment Tax Credit (ITC)	41	<input type="text"/>
OTHER TAX CREDITS		
Manitoba Manufacturing Investment Tax Credit	42-1	<input type="text"/>
Saskatchewan Livestock Investment Tax Credit	42-2	<input type="text"/>
Saskatchewan Livestock Facilities Tax Credit	42-3	<input type="text"/>
Summary of Footnote amounts		
Box 21 - Qualified Farm Property	<input type="text"/>	<input type="text"/>
Box 21 - Qualified Small Business Corporation Shares	<input type="text"/>	<input type="text"/>
Box 26 - Eligible Capital Property - Qualified Farm Property	<input type="text"/>	<input type="text"/>
Box 26 - Eligible Capital Property - Other	<input type="text"/>	<input type="text"/>
Box 30 - Qualified Farm Property	<input type="text"/>	<input type="text"/>
Box 30 - Qualified Small Business Corporation Shares	<input type="text"/>	<input type="text"/>

CERTIFICATION

I hereby certify that the information given in the T3 Summary and the related T3 Supplementaries is true, correct and complete in every respect.

Name of Authorized person	Position or Title	Signature of authorized person	Date
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Appendix A

Cost of additions of depreciable assets

The following paragraphs cover some special rules that determine the cost of depreciable property to the trust, when the trust acquires the property by gift, inheritance or bequest.

69(1), 73(1)

If the property was acquired by **inter vivos gift**, the cost is the fair market value of the property at the time it was acquired. An exception occurs if the property was acquired by a spouse trust, if at the time both the settlor and the trust were resident in Canada. The spouse trust would use the undepreciated capital cost of the property to the settlor unless the settlor elects to do otherwise.

70(6)

If the property was acquired by **bequest or inheritance, and the trust is a spouse trust**, and the settlor was resident in Canada immediately before his or her death, and the trust was resident in Canada immediately after the property vested in the trust, the **cost** amount for each property acquired is the undepreciated capital cost of the property to the settlor immediately before death.

70(5)

If the property was acquired by **bequest or inheritance**, and the trust is not a spouse trust meeting the conditions described in the above paragraph, the **cost** of each property is an amount that is the average mean between the fair market value of the property at the time it was acquired, and the undepreciated capital cost of the property to the settlor immediately before death.

70(9)

If the property is **Part XI farm assets acquired by bequest or inheritance which vested indefeasibly in a resident child of the settlor within 36 months** of death, and where immediately before the death of the settlor the property was used in the business of farming by the settlor, spouse or a child, the cost of each property acquired is the undepreciated capital cost of the property to the settlor immediately before death (unless the legal representative of

the deceased elects otherwise). For more information, see Interpretation Bulletin, IT-349R2, *Intergenerational Transfers of Farm Property on Death*.

If the property is **Part XVII assets acquired by inter vivos gift, bequest or inheritance**, the cost is the fair market value of the property at the time it was acquired.

73(3)

If the property is **depreciable farm assets** of a prescribed class in Canada **acquired by inter vivos gift or sale for the transferor's child** who was resident in Canada immediately before the transfer, the **cost** of each property acquired cannot:

- (a) exceed the greater of the fair market value of the property and the undepreciated capital cost of the property, immediately before the transfer, or
- (b) be less than the lesser of the two amounts described in (a) above.

If the property is sold to the trust for an amount between the fair market value of the property and its undepreciated capital cost, the cost will be equal to the sale price. The proceeds of disposition to the transferor will be equal to the cost of the property to the trust." For additional information, refer to Interpretation Bulletin, IT-268R3, *Inter Vivos Transfer of Farm Property to Child* and its Special Release.

Note

If there is more than one property in a prescribed class, the undepreciated capital cost of a property is that portion of the undepreciated capital cost of the class that the fair market value of the particular property is to the fair market value of all the property in the class.

If the original capital cost of depreciable property to the transferor is greater than the cost at which the trust acquires the property, the trust is considered to have acquired the property at its original capital cost, and to have claimed the difference as capital cost allowance.

Appendix B

Employment and employment-related income

If a person dies **while employed**, there are a number of entitlements that the employer may pay to the employee's estate. These entitlements will be paid after the employee's death and in most cases the T4 or T4A information slip will be made out to the estate of the employee. For taxation purposes, these payments fall into three groups:

- amounts to be reported on the final T1 return of the deceased;
- amounts to be reported on the T3 return of the estate;
- non-taxable amounts.

1. Amounts to be reported on the final T1 return of the deceased

These payments form part of the employee's employment income for the taxation year in which the employee died, regardless of when they are paid. Report the payments on the final T1 return of the deceased, even if a payment is received in a year after the year of death. The following table describes the payments and whether they qualify as a right or thing. See below for alternative possibilities for reporting a right or thing.

Type of payment	Info slip	Deceased final T1 return	Right or thing
(a) Salary or wages (including overtime) from the end of the last pay period to date of death. e.g., last pay period: May 16-31; date of death: June 4; accrued period: June 1-4; paid: June 19.	T4, Box 14	x	
(b) Salary or wages (including overtime) for a pay period completed before the date of death but paid after death. e.g., pay period: June 1-15; date of death: June 16; paid: June 19.	T4, Box 14	x	x
(c) Payment for accrued vacation leave.	T4, Box 14	x	x
(d) Retroactive adjustments to amounts in (a), (b), or (c) as a result of an agreement or promotion where the authorizing instrument was signed before the date of death.	T4, Box 14	x	x

2. Amounts to be reported on the T3 return of the estate

Report the following payments on the T3 return of the estate for the year in which a payment is received. If a

payment is received in a year after the year of death, report it on the T3 return for that subsequent year.

Type of payment	Info slip	Estate T3 return
(a) Salary or wages (including adjustments) paid for the period after the date of death usually to the end of the month, or payment for the full month of death for which the employee was not receiving pay but was on authorized leave.	T4A, Box 28	x
(b) Severance pay received on account of death (as this is a death benefit, an amount up to \$10,000 may be non-taxable).	T4A, Box 28	x
(c) Future adjustments to severance pay regardless of when the collective agreement was signed.	T4A, Box 28	x
(d) Refund of pension contributions payable because of death.	T4A, Box 18	x
(e) Guaranteed minimum pension payment (not a death benefit).	T4A, Box 18	x
(f) Deferred profit sharing plan payment.	T4A, Box 18	x

3. Non-taxable amounts

The following amounts are non-taxable:

- (a) Retroactive adjustments to amounts in 1(a), (b), or (c) when the collective agreement or other authorizing instrument has been signed after the date of death.
- (b) Group term insurance such as the federal government's supplementary death benefit.

4. Alternative returns for reporting a right or thing

Although a right or thing is normally reported on the deceased person's final T1 return, under certain conditions, a right or thing may be reported on another return. The following table describes the conditions and the other returns on which a right or thing may be reported.

Condition	Deceased separate T1 return	Beneficiary current T1 return
(a) Subsection 70(2) election within the required time limit.	x	
(b) Subsection 70(3) transfer within the time limit for subsection 70(2) election, directly to a beneficiary.		x

Related publications

The following publications are available and may be obtained from your district office:

Guides

1991	General Tax Guide
1991	Business and Professional Income Tax Guide (T4002)
1991	Capital Gains Tax Guide (T4037)
1991	Deceased Persons Income Tax Guide (T4011)
1991	Farming Income Tax Guide (T4003)
1991	Fishing Income Tax Guide (T4004)
1991	Guide to the Partnership Information Return (T4068)
1991	Pension and RRSP Tax Guide (T4040)
1991	Rental Income Tax Guide (T4036)
1991	T5 Guide, Return of Investment Income (T4015)

Employers' Guide to Payroll Deductions (T4001)
 Guide for Payers of Non-Resident Tax
 Guide to the Charity Information Return
 Retirement Compensation Arrangement Guide (T4041)
 Valuation Day Prices of Publicly Traded Shares

Interpretation Bulletins

IT-83R3	Non-profit Organizations — Taxation of Income from Property
IT-114	Discounts, Premiums and Bonuses on Debt Obligations
IT-120R3	Principal Residence
IT-132R2	Capital Property Owned on December 31, 1971 — Non-Arm's Length Transactions
IT-179	Change of Fiscal Period
IT-201R	Foreign Tax Credit — Trust and Beneficiaries
IT-207R	"Tainted" Spouse Trusts
IT-212R3	Income of Deceased Persons — Rights or Things
IT-217	Capital Property Owned on December 31, 1971 — Depreciable Property
IT-217 SR	Special Release
IT-236R3	Reserves — Disposition of Capital Property
IT-238R2	Fees Paid to Investment Counsel
IT-258R2	Transfer of Property to a Spouse
IT-258R2 SR	Special Release
IT-260R	Transfer of Property to a Minor
IT-260R SR	Special Release
IT-268R3	Inter Vivos Transfer of Farm Property to Child
IT-268R3 SR	Special Release
IT-270R2	Foreign Tax Credit
IT-281R2	Elections on Single Payments from a Deferred Profit Sharing Plan
IT-285R	Capital Cost Allowance — General Comments
IT-285 SR	Special Release
IT-286R2	Trusts — Amount Payable
IT-301	Death Benefits — Qualifying Payments
IT-305R3	Establishment of Testamentary Spouse Trust
IT-331R	Investment Tax Credit

IT-337R2	Retiring Allowances
IT-342R	Trusts — Income Payable to Beneficiaries
IT-349R2	Intergenerational Transfers of Farm Property on Death
IT-366R	Principal Residence — Transfers to Spouse, Spouse Trust or Certain Other Individuals
IT-366 SR	Special Release
IT-369R	Attribution of Trust Income to Settlor
IT-370	Trusts — Capital Property Owned on December 31, 1971
IT-372R	Trusts — Flow Through of Taxable Dividends and Interest to a Beneficiary
IT-372R SR	Special Release
IT-374	Meaning of "Settlor"
IT-377R	Director's, Executor's and Juror's Fees
IT-381R	Trusts — Deduction of Amounts Paid or Payable to Beneficiaries and Flow-Through of Taxable Capital Gains to Beneficiaries
IT-385R2	Disposition of an Income Interest in a Trust
IT-394R	Preferred Beneficiary Election
IT-396R	Interest Income
IT-406R2	Tax Payable by an Inter Vivos Trust
IT-407R3	Disposition after 1987 of Canadian Cultural Property
IT-419	Meaning of Arm's Length
IT-419 SR	Special Release
IT-446R	Legacies
IT-447	Residence of a Trust or Estate
IT-456R	Capital Property — Some Adjustments to Cost Base
IT-465R	Non-Resident Beneficiaries of Trusts
IT-484R	Business Investment Losses
IT-496	Non-Profit Organizations
IT-496 SR	Special Release
IT-500	Registered Retirement Savings Plans (maturing after June 29, 1978) Death of Annuitant after June 29, 1978
IT-502	Employee Benefit Plans and Employee Trusts
IT-502 SR	Special Release
IT-506	Foreign Taxes as a Deduction from Income
IT-508	Death Benefits — Calculation
IT-510	Transfers and Loans of Property made after May 22, 1985 to a Related Minor
IT-511	Interspousal Transfers and Loans of Property made after May 22, 1985
IT-520	Unused Foreign Tax Credits — Carryforward and Carryback
IT-524	Trusts — Flow Through of Taxable Dividends to a Beneficiary — After 1987

Information Circulars

73-13	Investment Clubs
73-13 SR	Special Release
74-3R2	Supplementary Schedules for Calculating Capital Gains and Losses
74-21R	Payments out of Pension and Deferred Profit Sharing Plans — ITAR 40

76-12R4	Applicable Rate of Part XIII Tax on Amounts Paid or Credited to Persons in Treaty Countries	T184	Calculation of Capital Gains Refund for a Mutual Fund Trust
76-12R4 SR	Special Release	T691A	Minimum Tax Supplement — Multiple Jurisdictions
77-1R3	Profit Sharing Plans	T2036	Calculation of Provincial Foreign Tax Credit
77-16R3	Non-resident Income Tax	T2038(IND)	Investment Tax Credit (Individuals)
78-4R3	Investment Tax Credit Rates	T2076	Valuation Day Value Election for Capital Properties Owned on December 31, 1971
78-4R3 SR	Special Release	T2084	Capital Dispositions Supplementary Schedule Re: Bonds and Other Obligations
78-5R2	Communal Organizations	T2124	Statement of Income and Expenses from a Business
78-10R2	Books and Records Retention/Destruction Guidelines for Trust Companies and Other Persons Responsible for Filing T3R-IND and Other Returns	T2203	Calculation of Tax in Respect of Multiple Jurisdictions
78-14R2		T2209	Calculation of Federal Foreign Tax Credit
82-2R	Social Insurance Legislation as it Relates to the Preparation of Information Slips	T2210	Verification of Policy Loan Interest by Insurer
82-6	Requesting Clearance Certificates for Estates and Trusts	T2211	Calculation of Deemed Proceeds and Capital Gain Deferral on Disposition of Shares of a Small Business Corporation
85-5R	Custom and Facsimile Tax Forms	PD7AR-NR	Non-resident Tax Remittance Form
89-4	Tax Shelter Reporting	NR4B	
91-2	List of Forms and Publications Available for Use by the Public	Supplementary	Statement of Amounts Paid or Credited to Non-residents of Canada
Forms		NR4B	Return of Amounts Paid or Credited to Non-Residents of Canada
T3A	Request for Loss Carry-back by a Trust	Summary	
T79	Alberta Royalty Tax Rebate Calculation and Application (Individuals)	T3	
T80	Alberta Royalty Tax Credit Calculation and Application (Individuals)	Supplementary	Statement of Trust Income
T81	British Columbia Royalty and Deemed Income Rebate Calculation and Application	T3 Summary	
T86	Manitoba Manufacturing Investment Tax Credit	T4A	
		Supplementary	Statement of Pension, Retirement, Annuity and Other Income

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