Revenue Canada
Customs, Excise and Taxation

Revenu Canada
Accise, Douanes et Impôt

1992

T3
Guide and Trust Return

T4013(E) Rev. 92

Canada

Cette publication existe aussi en français

Changes for 1992

Changes to the return and schedules for 1992

Significant changes to the return and schedules are given below. Most changes result from tax changes that the Minister of Finance announced, and they are highlighted in this guide under the heading "Pending legislation — From Notice of Ways and Means Motion tabled in the House of Commons on June 19, 1992." The proposed changes had not become law at the time of printing. However, we are getting ready to apply them.

Trust Income Tax Return and Information Return

Line 10, NISA Fund No. 2 — This is a new line to report payments received or deemed to have been received out of a farmer's net income stabilization account (NISA).

Line 11, Deemed realizations — This line is to report income resulting from the 21-year deemed realization rule. These amounts will be calculated on the new Form T1055, *Summary of Deemed Realizations*. We cover this topic at length in this guide. See page 22.

Line 100, Refund code — By entering the applicable code, you will tell us what to do with your refund.

Schedules

Schedule 3

Line 303, Non-qualifying real property — This new line adjusts the trust's annual gains limit to exclude capital gains on real property, accrued after February 1992, that do not qualify for the capital gains deduction. We have provided a worksheet on the back of Schedule 3 to help you calculate this amount.

Line 323, Adjusted cumulative loss amount reported in previous years — Part B of this line adjusts the cumulative loss amount reported in previous years. It reduces the net capital losses of other years, claimed in the years 1988 to 1991, by the taxable portion of pre-1985 reserves reported in the same year. We have provided a chart in the guide at line 323 to help you calculate this adjustment.

Schedule 4

Investment expenses, lines 409 to 411 — New lines 409 to 411 adjust investment expenses to calculate the trust's cumulative net investment loss (CNIL). Net capital losses of other years deducted in the year are added to the investment expenses of the year. These losses are added to the extent that the losses claimed exceed the taxable capital gains that are not eligible for the capital gains deduction (i.e., reserves on dispositions before 1985, and all or a portion of non-qualifying real property.)

Investment income, lines 427 to 429 — New lines 427 to 429 adjust investment income to calculate the trust's CNIL, so that taxable capital gains that are not eligible for the capital gains deduction (i.e., reserves on dispositions before 1985, and all or a portion of non-qualifying real property) can be included.

Schedule 5

Line 510, Spousal trust's taxable capital gains (losses) for the year — This new line ensures that the spousal trust's capital gains deduction is not more than the capital gains for the trust for the year.

Schedule 6

Line 614, 3/4 × non-qualifying real property — This new line provides an adjustment to exclude the after-February 1992 portion of taxable capital gains, and allowable capital losses from real property, when calculating gains attributable to other property.

Schedule 9

Part A, line 910 — We added a line to this schedule to include the amounts reported on line 10 of the T3 return which are NISA Fund No. 2 payments that a testamentary trust received while the beneficiary spouse was alive.

Part B, line 927-1 — This new line would be completed by a communal organization to show the amount of income in box 27 that relates to a business, other than farming and fishing.

Schedule 11

Line 1124, Individual surtax — The general federal surtax is reduced to 4.5% for 1992. (It is reduced to 3% for 1993, and subsequent taxation years.) The rate of the additional surtax remains at 5%.

T3 Supplementary

Filing requirements — You do not have to prepare a T3 Supplementary for a beneficiary if the total amount allocated in the year to that beneficiary is less than $100 and consists solely of interest income. This policy will not apply if the trustee is allocating a combination of interest income and any other type of income. For example, it will not apply if a trustee is allocating $40 interest income and $55 from any other source.

Boxes 21 and 30 — If you complete box 21 (Capital gains), you also have to complete box 30 (Capital gains eligible for deduction). If the amount of capital gains eligible for deduction is zero, enter "0" in box 30.

Other changes

Testamentary trust 164(6.1) election

This new election allows a legal representative to file an amended T1 return to claim a loss from employment, if an employee stock option was exercised or disposed of (expired or lapsed) in the first taxation year of the estate, at a value below the deemed employment benefit reported on the deceased taxpayer's final return.

Fairness legislation

New legislation, retroactive to the 1985 taxation year, allows us, in certain circumstances, to:

- accept late, amended, or revoked elections (includes preferred beneficiary elections);
- cancel, reduce, or waive interest and penalties; and
- issue and apply refunds beyond the normal three-year period (testamentary trusts only).

Your district taxation office has three new information circulars that provide guidelines for applying the fairness legislation. They are:

- Information Circular 92-1, *Guidelines for Accepting Late, Amended or Revoked Elections*;
- Information Circular 92-2, *Guidelines for the Cancellation and Waiver of Interest and Penalties*; and
- Information Circular 92-3, *Guidelines for Refunds Beyond the Normal Three Year Period*.

Table of Contents

Page

General Information 4
Filing requirements 4
Residence of trust 5
Taxation year 6
Penalties and interest 6
Reassessments 7
Books and records 7
Clearance certificate 7
Privacy Act 7
Problem Resolution Program 7
Improving the guide 7
Types of trusts 7
Transfers and loans of property 10

Completing the T3 Return 11
Page 1 — Identification 11
Page 2 — Income — Lines 1 to 20 11
— Deductions — Lines 21 to 41 14
— Taxable benefits — Lines 43 to 45 15
Page 3 — Additional information required 15
Page 4 — Calculation of taxable income of trust — Lines 50 to 56 16
— Summary of tax and credits — Lines 81 to 91 17
— Certification area 18

Trust Schedules 18
Schedule 1 — Summary of Dispositions of Capital Property — Lines 101 to 122 18
Form T1055, *Summary of Deemed Realizations* 22
Schedule 2 — Calculation of Reserves on Dispositions of Capital Property — Lines 210 to 216 26
Schedule 3 — Calculation of Trust's Eligible Taxable Capital Gains — Lines 301 to 334 26
Schedule 4 — Calculation of Cumulative Net Investment Loss — Lines 401 to 433 28
Schedule 5 — Beneficiary Spouse Information and Calculation of Spousal Trust's Capital Gains Deduction — Lines 501 to 525 28
Schedule 6 — Calculation of Total Taxable Capital Gains Attributable to Qualified Farm Property or Qualified Small Business Corporation Shares — Lines 610 to 615 29
Schedule 7 — Statement of Pension Income Allocations and Designations 29
Schedule 8 — Statement of Investment Income and Calculation of Gross-up Amount of Dividends Retained by Trust — Lines 805 to 824 29
Schedule 9 — Summary of Income Allocations or Designations to Beneficiaries — Lines 901 to 944 31
Schedule 10 — Calculation of Part XII.2 Tax and Part XIII Non-resident Withholding Tax — Lines 1001 to 1031 38
Completing the NR4B return 40
Distributing the NR4B return 41
Schedule 11 — Calculation of Federal Income Tax — Lines 1101 to 1130 41
Schedule 12 — Calculation of Minimum Tax — Lines 1201 to 1269 45
Schedules 13 and 14 — Provincial and Territorial Tax Payable 47

T3 Supplementary and T3 Summary 49
Completing the T3 Supplementary form 49
Distributing the T3 Supplementary form 52
Completing the T3 Summary form 53
Filing the T3 Summary form 53

Appendix A — Cost of Additions of Depreciable Assets 55

Appendix B — Employment and Employment-Related Income 56

Related Publications 57

Index 59

Contacting Us 61

General Information

This guide contains information to help you complete the 1992 Form T3, *Trust Income Tax Return and Information Return* (T3 return). The 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 Act and Regulations.

Throughout the guide, we refer to other publications and guides that give more detailed information on different subjects. These publications are available at your district office. When requesting a publication, always ask for the most recent version. If you need more help, please contact your taxation office.

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 the estate did not earn income 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 78-5, *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 organization" section in this guide.

  Pending legislation — From Notice of Ways and Means Motion tabled in the House of Commons on June 19, 1992

  An agricultural organization, board of trade, chamber of commerce, or non-profit organization, exempt from tax under paragraph 149(1)(e) or (l), will have to file Form T1044, *Non-Profit Organizations (NPO) Information Return*, for a fiscal period ending after 1992, if:
  - the organization received dividends, interest, rents, or royalties in excess of $10,000 in the period;
  - the total book value of its assets exceeded $200,000 at the end of the preceding fiscal period; **or**
  - it was required to file form T1044 in a previous year.
- 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 78-14, *Guidelines for Trust Companies and Other Persons Responsible for Filing T3R-IND, T3R-G, etc.*
- **Pending Legislation — From Notice of Ways and Means Motion tabled in the House of Commons on June 19, 1992**

  A registered Canadian amateur athletic association acting as a trustee for an amateur athlete trust has to file an annual return on behalf of the amateur athlete trust. The proposed form is T1061, *Canadian Amateur Athlete Trust Group Information Return*, or, if a payment is made to a non-resident athlete, T3ATH-IND, *Amateur Athlete Trust Information Return and Income Tax Return*. A T3 Supplementary and Summary is prepared for a resident athlete and an NR4B Supplementary and Summary is prepared for a non-resident athlete.
- A Retirement Compensation Arrangement (RCA) has to file a T3-RCA, *Part XI.3 Tax Return*. For details, see the *Retirement Compensation Arrangement Guide*.
- A registered charity has to file a T3010, *Registered Charity Information Return and Public Information Return*. For details, see the *Guide to the Charity Information Return*.
- A trustee or receiver appointed under the *Bankruptcy Act*, who is acting on behalf of an individual, has to file a T1 return rather than a T3 return.
- An agent, nominee, or custodian not acting in a fiduciary capacity has to 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)
- NR4B Summary and NR4B Supplementary for non-resident beneficiaries (see guide item, "Trust Schedule 10")
- T4(T4A-NR) Summary and T4(T4A-NR) Supplementary for executor and trustee fees (see guide item, "Lines 22 to 24, Trustee fees")
- T4A Summary and T4A Supplementary for beneficiaries of employee benefit plans and employee trusts.

  For more details on completing T4, T4A, and T4A-NR forms, see *Employers' Guide to Payroll Deductions.* Note that these forms have to be filed by the last day of February following the calendar year in which the payment was made.

Two copies of the T3, *Trust Income Tax Return and Information Return* and of each schedule are in the centre of this guide. You can obtain additional copies of the return, schedules, summaries and supplementaries (forms NR4B, T3, T4, T4A, and T4A-NR) from your district office.

Since 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 1992" identifies the 1992 version of the T3, *Trust Income Tax Return and Information Return,* and "Rev. 92" identifies the 1992 trust schedules. If you have to file a return for the 1993 taxation year, and the 1993 return is not available, you can use the 1992 version. If you are filing a return for an earlier year (e.g., 1991), please complete the return and schedules designed for that year (T3 1991 and Rev. 91), 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.

To determine 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.

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

If you have a question about trusts resident in Canada, get in touch with 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 KIA 1A8

If you have a question about non-resident trusts, get in touch with the International Taxation Office.

When calling from:

The Ottawa area 952-8753
Other Canadian locations 1-800-267-5177
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.*

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. The year-end will determine the tax rates used and the tax year of the T3 supplementaries issued to the beneficiaries.

Once the year-end is established, it may not be changed without obtaining our approval. For more details, see Interpretation Bulletin IT-179, *Change of Fiscal Period.*

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 of 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 1993 T3 returns and schedules will not be available until the end of 1993). A 1993 return due before the forms are available would have to be filed on a 1992 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 Parliament passes the legislation, 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(l) 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 of the end of the trust's taxation year.

Final return

If you are filing a final return, be sure to enter the wind-up date in the appropriate area on page 1 of the T3 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)

- For an **income tax return**, the penalty for not filing by the required date is 5% of the **unpaid** tax, plus 1% of the **unpaid** tax for each full month (to a maximum of 12 months) that the return is late. 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 assessed 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.
- For an **information return**, the penalty for not filing by the required date is $25 a day, with a minimum penalty of $100, to a maximum of $2,500. 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 such a fine and imprisonment for a term of up to 12 months.

We may waive the late-filing penalty if you file late because of circumstances beyond your control. If this occurs, include a letter with the return giving reasons.

Interest 161, 164

We charge interest 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. We compound interest daily.

Pending legislation — From Notice of Ways and Means Motion tabled in the House of Commons on June 19, 1992, applicable to returns filed after 1992.

We will pay compound daily interest on a tax refund starting on whichever date is latest:

- the 46th day after the return is due to be filed (136 days after the year-end of the trust);
- the 46th day after the return is filed; or
- the date the overpayment took place.

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. For more details, see guide item "Contacting Us."

There is no time limit for reassessments based on misrepresentation due to neglect, carelessness, wilful default, or when a fraud has been committed in filing the return or supplying 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 we give written permission to dispose of such books and records. See Information Circular 78-10, *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 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*, to the Business Audit Section at the appropriate district office. Contact your district office to obtain a copy of form TX19.

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

Privacy Act

The information you provide on the *Trust Income Tax Return and Information Return* can only be used for purposes provided under the *Income Tax Act*.

Problem Resolution Program

We are continually looking at ways to make it easier for you to file your tax return and to resolve problems you may have.

We deal with the majority of your questions and concerns through our enquiries services. In other words, if you have a problem, you should call or write your district office or taxation centre. However, if your problem is not resolved to your satisfaction, you can contact a Problem Resolution Program coordinator.

To contact the Problem Resolution Program coordinator at your district office or taxation centre, please see "Contacting Us" and the telephone numbers at the back of this guide.

Improving the guide

We review this guide each year. If you have comments or suggestions that would help us improve the explanations it contains, we would like to hear from you.

Please send your comments to:

Tax Forms Directorate
Revenue Canada
875, Heron Road
Ottawa, Ontario K1A OL8.

Types of trusts

Testamentary trust 108(1)(i), 248(9.1)

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 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 the trust owned that was contributed by persons, except an individual on death

and property substituted therefor, **exceeds** the fair market value of all property the trust owned 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 we use to further describe testamentary and inter vivos trusts.

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

A spousal 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 spousal 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 spousal trust if benefits to the spouse change or cease upon remarriage.

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

Pending legislation — From Notice of Ways and Means Motion tabled in the House of Commons on June 19, 1992, effective after February 11, 1991

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

A **pre-1972 spousal trust** includes both a testamentary trust created before 1972, and an inter vivos trust created before June 18, 1971, where only the beneficiary spouse:

- was entitled to receive trust income
- received trust income
- had the use of trust income

These conditions cover the period that begins on the day the trust was created, and ends on whichever date is the earliest:

- the day the beneficiary spouse dies
- January 1, 1993
- the day the definition is applied

The trust will not qualify as a pre-1972 spousal trust if, during 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 both a testamentary trust created after 1971 and an inter vivos trust created after June 17, 1971, where the living beneficiary spouse 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.

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 it will become taxable in the minor's hands. For more details, see Interpretation Bulletin IT-286, *Trusts — Amount Payable*.

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

A unit trust is an inter vivos trust of which the interest of each beneficiary in the trust can be described at any time 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, *Calculation of Capital Gains Refund for a Mutual Fund Trust* 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 existing on December 31, 1976, and continuously thereafter, when a congregation:

- has members who live and work together;
- does not permit 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 another 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 78-5, *Communal Organizations*, deals with this subject in detail.

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

An employee benefit plan is an arrangement under which an employer makes contributions to fund benefits for employees or former employees. The employer may deduct contributions to the plan only when they are distributed to employees or to former employees, or to their legal heirs or representatives. At the same time, the recipient includes the amount 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. The amounts 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 when received, and they are not deducted from income when paid out. 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. If, in a taxation year, only part of the investment income is paid out, we need a breakdown, by type (taxable capital gains, dividends from taxable Canadian corporations, and other) of the income remaining in the trust. For example, we need amounts pertaining to dividends from taxable Canadian corporations to calculate the dividend tax credit and minimum tax. For reconciliation purposes, the breakdown of the amounts paid could be shown in the total column on Schedule 9, Part B (line 923) and on Schedule 8, line 822.

Report payments out of or under an employee's benefit plan on the T4A Supplementary form. For details, see *Employers' Guide for Payroll Deductions*.

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 to apply, where applicable, 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
- 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 organization 122(1), 149(1)(l), 149(5), 149(12)

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 generally be exempt from tax 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-83, *Non-profit Organizations — Taxation of Income from Property*.

Pending legislation — From Notice of Ways and Means Motion tabled in the House of Commons on June 19, 1992

For fiscal periods ending after 1992, the non-profit organization may also be required to file Form T1044, *Non-Profit Organizations (NPO) Information Return*. For more details, see guide item "Other filing requirements."

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

In general, an employee trust is an arrangement established after 1979, under which an employer makes payments 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 of 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. See the *Employer's Guide for Payroll Deductions* for T4A reporting requirements.

Investment club

If an investment club is a bona fide trust, a T3 return should be filed for the club. Normal trust rules will apply.

If the investment club is not a partnership, trust, or corporation it may 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 so elects must file Form T5013, *Partnership Information Return*. For details, see the *Guide to the Partnership Information Return* and Information Circular 73-13, *Investment Clubs*, and its related Special Release issued April 6, 1992.

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."

Transfers and loans of property
74.1(1), 74.1(2), 74.2, 74.3, 74.5, 56(4.1) to (4.3), 248(25)

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 and resident in Canada, may have to report the income from the property and any taxable capital gain on the subsequent disposition of the property by the trust.

When an individual transfers or lends property **to a trust** for the benefit of a beneficiary who is a **related minor**, the income from the property may be attributed to the transferor and taxed in the transferor's hands while the transferor is alive and resident in Canada. A related minor for this purpose is a person under the age of 18 who is not dealing at arm's length with the transferor (e.g., a child or descendant whether by blood relationship or adoption), or who is the niece or nephew of the transferor. The transferor does not have to report the income of the trust if the beneficiary has, before the end of the year, turned 18, or if the income is taxed in the trust.

The attribution rule does not apply if property is sold to the trust at fair market value. It also does not apply if loans bear a prescribed rate of interest, and the interest charged is 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. In the case of loaned property, income is attributed to the transferor only if the property was lent to a trust for a spouse or related minor after May 22, 1985, or if the property was lent before May 23, 1985, and the loan is outstanding after 1987.

For more details, see Interpretation Bulletins IT-258, *Transfer of Property to a Spouse*, and its Special Release, IT-260, *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*, IT-511, *Interspousal Transfers and Loans of Property made after May 22, 1985*, and IT-286, *Trusts — Amount Payable*. Interpretation Bulletins IT-510 and IT-511 contain sample calculations to determine the amount to be included in the transferor's income.

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.

When an individual receives a low-interest or interest-free loan **from** (or becomes indebted to) **a trust** to which property was transferred by another individual with whom the individual does not deal at arm's length, the trust (lender) will have to report the income from that loaned property or any property substituted for it if the main reason for the loan is to reduce or avoid tax on the income from the property or substituted property. This rule also applies to a loan made on an arm's length commercial basis if the loan is used to repay the original low-interest or interest-free loan.

Completing the T3 Return

Form T3, *Trust Income Tax Return and Information Return*, is a four-page form with related schedules on which the preparer:

- completes the ''Identification'' area in full (page 1);
- reports income and deductions to arrive at net income (page 2);
- deducts trust income which is allocated and designated to its beneficiaries (page 2);
- claims the deductions to arrive at taxable income (page 4); and
- determines any tax payable (page 4).

Page 1 Identification

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

- Complete **all** items on page 1 of the return. This information has to be provided each year that a return is filed. Failure to provide the necessary information may delay the assessment of the return.
- **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.
- **Residence of trust** and **type of trust** — 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.
- **Date of death** (testamentary trust) or **date trust created** (inter vivos trust) — Please ensure that this information is provided on each return filed.
- **Non-profit organization** — If the non-profit organization is incorporated, enter the corporation account number that we have assigned.

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

Question 7

If the beneficiary spouse died and the trust meets any of the following conditions, answer ''yes,'' and report the date of death of the beneficiary spouse.

Testamentary spousal trust was created:

- **before** 1972, and the beneficiary spouse died after December 31, 1971, but before January 1, 1976 (or after 1992); or
- **after** December 31, 1971.

Intervivos spousal trust was created:

- **before** June 18, 1971, and the beneficiary spouse died after December 31, 1971, but before May 26, 1976 (or after 1992);
- **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; or
- **after** June 17, 1971.

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'' for more details. Designations under subsections 104(13.1) and 104(13.2) can 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) cannot be made, withdrawn, or changed.**

Page 2 Income Lines 01 to 20

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 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 1992, nor allocated to the beneficiaries (except as described under guide item ''Allocation or designation of losses''). The excess becomes a ''net capital loss'' for 1992, which can be applied in other years against the amount of taxable capital gains clear of allowable capital losses of those 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 income tax return (T1) 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.

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

Lump-sum payments Income Tax Application Rules (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 Schedule 11, line 1109, and we will calculate the tax adjustment for you. Information Circular 74-21, *Payments out of Pension and Deferred Profit Sharing Plans — ITAR 40*, and Interpretation Bulletin IT-281, *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 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. 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 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 has to use the accrual method to determine its net business income. Attach a separate profit and loss statement (such as Form T2124, *Statement of Income and Expenses from a Business*) and a balance sheet for each business carried on by the trust. For more information, see the *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 can use either the cash or accrual method to determine income from these sources for the taxation year. Once a method is chosen, the same method must be used each year. Attach a statement of income and expenses to the return. The *Farming Income Tax Guide* and the *Fishing Income Tax Guide* contain Form T2042, *Statement of Farming Income and Expenses*, and Form T2121, *Statement of Fishing Income and Expenses*, 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, *Statement of Real Estate Rentals*) to your return. To obtain a copy of this form, and for additional information, see the *Rental Income Tax Guide*.

If the trust acquired property by gift, bequest, or inheritance, and it is claiming capital cost allowance on form T776, see 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 10
NISA Fund No. 2
12(10.2), 104(5.1), 104(14.1), 104(6)(b)

Pending legislation — From Notice of Ways and Means Motion tabled in the House of Commons on June 19, 1992, effective for 1991 and subsequent taxation years

NISA Fund No. 2 refers to the portion of a farm producer's net income stabilization account (NISA) that arose from third party sources such as interest, bonuses, and government contributions.

Amounts reported on this line are considered to be property income of the trust. The amounts include payments received, and amounts deemed to have been received, by the trust out of its NISA Fund No. 2.

A testamentary spousal trust, holding a NISA Fund No. 2 transferred to it on the death of the settlor, will report a deemed payment, on the day the beneficiary spouse dies, equal to the fund's balance at the end of the day of death. However, the trust and the legal representative of the beneficiary spouse may elect to report all or a portion of this deemed payment on the beneficiary spouse's final return, rather than on the trust's return. See "Election under subsection 104(14.1)," below.

On this line, the trust should report the amount, if any, by which "A" exceeds "B", where:

A = the amount paid in the year (or deemed to have been paid, such as on the death of the beneficiary spouse); and

B = the amount, if any, by which:

- the total of all amounts previously deemed to have been paid out of the fund to the trust, or to the beneficiary spouse, or out of another person's fund on being transferred to the trust

  exceeds

- the total of all amounts previously applied to reduce income out of the fund.

Note that income reported on this line is taxable in the trust. It cannot be included in the "Income allocations/designations to beneficiaries" on line 47, except for amounts reported by a testamentary spousal trust that relate to payments received while the beneficiary spouse was still alive.

Election under subsection 104(14.1)

If you wish to make this election before income tax regulations are available describing the "prescribed manner," you should submit the following information with the T3 return on which the deemed disposition is, or would be, reported:

- a statement making the election, stating the amount on which the election is made, signed by both the trustee and the legal representative of the beneficiary spouse's estate;
- a statement, signed by the trustee, showing the computation of the NISA Fund No. 2 and of the amount being reported on each return (T1 and T3.)

Line 11
Deemed realizations
104(4), (5), (5.2)

On this line, report the trust's income resulting from "21-year deemed realizations." This amount is calculated on new Form T1055, *Summary of Deemed Realizations*. For details, see guide item "Deemed realization (disposition) — 21-year rule."

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;
- 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 Interpretation Bulletin IT-337, *Retiring Allowances*); and
- 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. Be sure to attach a copy of the T4A Supplementary, or a statement from the deceased person's employer which identifies the payment as a death benefit. 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*. Note that 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 Schedule 9, line 935.

Registered retirement savings plans (RRSP)

A trust may be entitled to the income earned by an unmatured RRSP after the death of the only or last annuitant. Normally, this income is shown on a T5 or T3 Supplementary issued to the estate. The trust would include this amount in "Other income" on line 19. Please note that benefits that accrued to the date of death (normally shown on a T4RSP Supplementary) must be reported on a T1 return. For more information on taxable benefits from matured and unmatured RRSPs, see the *Pension and RRSP Tax Guide* and 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 41

Line 21
Carrying charges
18(1)(a), 20(1)(c), 20(1)(bb)

On line 21, enter the total from 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 can be claimed as "Outlays and expenses" on 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 basis 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.

Lines 22 to 24
Trustee fees
9(1), 20(1)(bb)

The trust can 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-238, *Fees Paid to Investment Counsel.*

In addition to the above outlays, the trust can deduct executor and trustee fees when computing its business or property income, provided the expense was incurred to gain or produce this income. Such fees cannot 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 to earn 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 the executor and trustee fees paid 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. Be sure to report (on the T4 or T4A-NR) the **total** amount of fees paid). For more details, see the *Employers' Guide to Payroll Deductions*, and Interpretation Bulletin IT-377, *Director's, Executor's, and Juror's Fees*. Note that T4 and T4A-NR forms have to be filed by the last day of February following the calendar year in which the payment was made.

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 can 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" (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:
  - 2 times the eligible taxable capital gains amounts designated by the trust for the taxation years ending in 1985, 1986, and 1987;
  - 3/2 times the eligible taxable capital gains amounts designated by the trust for the taxation years ending in 1988 and 1989; and
  - 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 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 Schedule 1, line 113.

Three-quarters 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 1992 taxation year is included in the non-capital loss of the trust for that year, and can be deducted when computing the taxable incomes of other taxation years. The non-capital loss for the 1992 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 *Capital Gains Tax Guide* and Interpretation Bulletin IT-484, *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" can 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 Supplementary 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 cannot claim a resource allowance on income allocated from a trust.

Deductions have to be related to sources of income

Please note that expenses of a trust have to be deducted before 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 to the applicable sources of trust income. Complete 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, see guide item "Schedule 11, line 1112" to determine whether the donations can be deducted as an allocation of trust income (on 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 have to 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 have to be indicated on this line (e.g., amounts paid for the beneficiary's personal or living expenses). These benefits have to be included on the T3 Supplementary form and reported as income by the beneficiary. The benefits reported here cannot 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 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 Schedule 9, line 928. Complete 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 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," see guide item "Preferred beneficiary election." This preferred beneficiary election has to be made and filed with us **within 90 days** of the end of the trust's taxation year.

Question 15

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 or recipients;
- description of assets transferred;
- fair market value of the assets on the day they are transferred; and
- cost amount of the assets on the day they are transferred.

Questions 16 and 17

If the answer is "yes" to either question, the election has to be filed to amend the deceased taxpayer's T1 return for the year of death. See guide items "Testamentary trust — 164(6) election" and "Testamentary trust — 164(6.1) 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 can 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 Form T3A, *Request for Loss Carry-back by a Trust.*

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**
- after 1985 (taxation years commencing in 1986 or later).

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.

Farming and fishing losses

The trust can carry back 3 years and forward 10 years non-capital losses from farming and fishing. For more details on farming or fishing, obtain the *Farming Income Tax Guide* or the *Fishing Income Tax Guide*. Note that there are restrictions on the amount of certain farm losses that can be claimed each year.

The trust can 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 can 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 guide item "Form T3A, *Request for Loss Carry-Back by a Trust*"), all or a portion of the net capital losses of other years that have not been applied in a previous year can be deducted in the 1992 taxation year as follows:

- net capital losses occurring before May 23, 1985:
  - from any net taxable capital gains realized in the 1992 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 1992 taxation year.

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

- one-half for taxation years and fiscal periods ending in 1987 and earlier;
- to two-thirds for taxation years and fiscal periods ending in 1988 and 1989; **and**
- to three-quarters for taxation years and fiscal periods ending in 1990 and subsequent years.

If you are going to apply a net capital loss to a taxable capital gain in a year when the taxable capital gain has been calculated at a different rate, you have to adjust the net capital loss amount to match the inclusion rate of the year to which you are applying it. To make this adjustment, use Area III of Form T3A, *Request for Loss Carry-Back by a Trust*. Note that you do not adjust the $2,000 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 *Capital Gains Tax Guide* for more details on "net capital losses of other years."

Listed personal property losses

Losses on listed personal property (LPP) can 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, make the claim on Schedule 1, line 108. See guide item "Listed personal property."

Form T3A, *Request for Loss Carry-Back by a Trust*

Requests for a loss carryback to a previous year have to 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 Form T3A, *Request for Loss Carry-Back by a Trust.* This form can 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 to the beneficiary's income 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 Bulletins IT-232, *Non-Capital Losses, Restricted Farm Losses, Farm Losses and Limited Partnership Losses — Their Composition and Deductibility in Computing Taxable Income* and IT-381, *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 spousal 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, can claim the unused portion of the beneficiary spouse's capital gains deduction. The deduction is based on the premise that the spousal trust should be able to claim a capital gains deduction, to the extent the spouse would have claimed a deduction if the spouse had directly realized the eligible taxable capital gains of the trust. To calculate the deduction, complete Schedule 5. Attach it to the T3 return. The amount on line 525 of this schedule is claimed on line 53 of the return.

Pending legislation — From Notice of Ways and Means Motion tabled in the House of Commons on June 19, 1992

This deduction will also be available to a pre-1972 spousal trust reporting a deemed realization on January 1, 1993, or on the death of the beneficiary spouse, whichever is later. However, the deduction is not available if the trust has filed a Form T1015, *Election by the Trust to Defer the Deemed Realization Day*. See guide item "Election by a trust to defer the deemed realization day."

Line 54
Other deductions to arrive at taxable income

On line 54, you can claim prior year 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 can 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 Schedule 11, line 1101 (testamentary trusts) or line 1107 (inter vivos trusts).

If the amount on line 56 was calculated as zero, or less, enter zero (or the negative amount) on 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 "Schedule 12, *Calculation of Minimum Tax*."

Summary of tax and credits Lines 81 to 91

Line 85
Payments on account of tax or tax paid by instalments

In the dotted space on line 85, enter the account number shown on your receipt, if the number on your receipt is not the same as the one on page 1 of the return.

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

This refund is available only to a mutual fund trust that has tax payable in respect of capital gains. Obtain form T184, *Calculation of Capital Gains Refund for a Mutual Fund Trust*, from your district office.

If the mutual fund trust is resident in Manitoba, Form T184 should be completed even if the only tax payable is the tax on net income, as the trust may still be eligible for a capital gains refund.

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 which 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).

Line 100
Refund code

If the trust is entitled to a refund, enter one of the following codes in refund code box 100:

- **0**, if you want us to refund the overpayment;
- **1**, if you want us to retain the overpayment for next year; or
- **2**, if you want us to hold the overpayment.

We will apply an overpayment of taxes to any outstanding previous year's tax balance. We will direct any amount left over according to the code you enter. If you do not enter a code, we will refund the overpayment.

If you enter code 1, we will retain the overpayment for next year, as well as any refund interest that has accumulated from the date of the assessment.

You could use code 2 if you want the year's overpayment applied to an expected debit assessment. Attach a letter to the return, providing details.

Certification area

Name of person or company (other than trustee/executor/administrator) that 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

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

Capital gains
3, 38, 39, 40

Complete Schedule 1 and file it with the T3 return if the trust had dispositions, or deemed dispositions, of capital property during the year. The amount from line 122 will be entered on line 01 of the T3 return.

A deemed realization resulting from the 21-year deemed realization rule, will be reported on the new Form T1055, *Summary of Deemed Realizations*, and not on Schedule 1. The amount from line 42 will be entered on line 11 of the T3 return. See guide item "Form T0155, Summary of Deemed Realizations" for more details.

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).

The general rules to follow when reporting a capital gain or loss depend on the type of asset disposed of, or deemed to be disposed of. For more details on capital gains or losses, obtain the *Capital Gains Tax Guide*. You may also wish to obtain Information Circular 74-3, *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

In the first taxation year of a deceased taxpayer's estate, the legal representative administering the estate can elect to transfer certain estate losses to the taxpayer's T1 return for the year of death. Such losses must have occurred when the representative:

- disposed of the estate's capital property, resulting in an excess of capital losses over capital gains; or
- disposed of all the estate's depreciable property in a prescribed class, resulting in a terminal loss in that class at the end of the taxation year.

The elected amount of terminal loss cannot be more than the trust's combined non-capital loss and farm loss, computed before the representative made the election. 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 the later of:

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

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."**

Pending legislation — From Notice of Ways and Means Motion tabled in the House of Commons on June 19, 1992

Testamentary trust — 164(6.1) election

A similar election is also available for employee stock options which expired, or were exercised or disposed of, within the first taxation year of the estate resulting in a gain that is below the deemed employment benefit reported on the deceased taxpayer's final return. The legal representative may elect to treat this reduction in value as a loss from employment for the year in which the taxpayer died. This election may be made for deaths after July 13, 1990.

The amount that the legal representative may elect to carry back to the deceased taxpayer's final return is equal to the amount, if any, by which:

(a) the deemed benefit for the option included on the deceased taxpayer's final return;

exceeds the total of

(b) the amount, if any, by which the value of the option immediately before it expired, was exercised, or disposed of;

exceeds the amount paid by the deceased taxpayer to acquire the option; and

(c) one-quarter of the amount by which (a) exceeds (b), if a similar deduction was claimed on the deceased taxpayer's final return.

If the election is made, the adjusted cost base (ACB) of the option to the trust has to be reduced by the amount of the loss determined above, [(a) − (b)], without taking (c) into consideration.

The legal representative has to file this election and an amended T1 return for the deceased taxpayer for the year of death by the latest of:

- the last day the legal representative is required, or has elected, to file a T1 return for the year of death;
- the day the estate's T3 return has to be filed for its first taxation year; and
- March 19, 1992.

Distribution of property to beneficiaries 104(5.3), 107(2), 107(4)

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 Notice of Ways and Means Motion tabled in the House of Commons on June 19, 1992, effective after February 11, 1991

After January 1, 1993, if the trust files a T1015 election to postpone a deemed disposition of its property, during the postponement only property distributed to "exempt beneficiaries" can be rolled over at cost. If property is distributed to non-exempt beneficiaries during this period, the proceeds to the trust and cost to the beneficiary will be the fair market value of the property. (See "Election by a trust to defer the deemed realization day" in the guide.)

If a post-1971 spousal trust distributes property (capital property, resource property, or land inventory) during a beneficiary spouse's lifetime other than to the beneficiary spouse, the trust is considered to receive proceeds of disposition equal to the fair market value of the property. In the case of depreciable property, the proceeds are considered to be the mid-point between undepreciated capital cost and fair market value (FMV), if disposed of before 1993, and at FMV if disposed of after 1992.

Capital dispositions — Other terms

Adjusted cost base 53, 54(a)

Adjusted cost base (ACB) is usually the cost of acquiring property plus or minus 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-456, *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 expenses directly related to the sale of the property. These outlays and expenses can be applied to reduce a capital gain or increase a capital loss. In the case of depreciable property sold at a loss, these outlays and expenses reduce the proceeds from the sale to be credited to the class. They cannot 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
Income Tax Application Rules (ITAR) 24 and 26(3)

The median of these three amounts is the amount that is neither the highest nor the lowest. This amount becomes the deemed cost, unless the property was depreciable property or an interest in a partnership. The capital gain or loss is computed on the deemed cost, 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.

The 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 can elect to use the Valuation Day Value as the cost for all transactions rather than use the median rule. Once this election is made, it will apply to most assets owned at the end of 1971, regardless of the year when the capital disposition occurs. The election is made on Form T2076, *Valuation Day Value Election for Capital Properties Owned on December 31, 1971*, 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 trust or a partnership related* to the trust owned the share;
- throughout the 24 months before the disposition, only the trust, or a person or a partnership related* to the trust owned the share; and
- throughout that part of the 24 months immediately before the disposition, while the trust, or person or partnership related to the trust, owned the share, 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; 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;
- 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, or a spouse, child, or parent of that beneficiary, to whom the trust has designated taxable capital gains; 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 a spousal trust claims the deduction, or the capital gains are designated to an individual beneficiary. More details are provided in this guide under Schedule 6, Schedule 9 — "Footnotes for box 21" and "Footnotes for box 26," and under "Completing the T3 Supplementary form."

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

Other capital properties
39

Other capital properties such as shares, bonds, and real estate are neither "qualified small business corporation shares," nor "qualified farm property." Therefore, they do not qualify for the higher capital gains deduction when designated to an individual beneficiary or claimed by a spousal trust. These capital properties fall under the general description of "other capital property" on Schedules 1 to 6 and the T3 Supplementary.

Line 104
Bonds
47(2), ITAR 26(8)

Since bonds can 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.

Pending legislation — From Notice of Ways and Means Motion tabled in the House of Commons on June 19, 1992

Capital gains on certain real estate, (and other properties whose value comes mostly from real estate), if disposed of after February 1992, do not qualify for the capital gains deduction. For more details, see guide item "Line 303, non-qualifying real property."

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, and antiques. If during the year the trust disposed of such an asset 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, indicate 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), 54(g), 107(2.01)

Pending legislation — From Notice of Ways and Means Motion tabled in the House of Commons on June 19, 1992, applies to dispositions and distributions occurring after 1990

A principal residence that a personal trust acquires will usually 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 other 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 trust has to make the designation on Form T1079, *Designation of a Property as a Principal Residence by a Personal Trust*. This form has to 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 can elect, in its tax return for the year of distribution 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. This provision applies to distributions occurring after May 9, 1985, in the case of a spousal trust, and after 1990 in the case of other personal trusts. A transitional rule will allow trusts (other than spousal trusts) to make the election up to six months after royal assent, if the distribution took place after 1990 and on, or before royal assent.

For more information, see Form T1079, *Designation of a Property as a Principal Residence by a Personal Trust*; 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; and
- 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. The minimum amount for both proceeds and adjusted cost base is $1,000. 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, indicate 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 year, the excess can 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 can be established for the unpaid amount. Generally, the minimum amount of a capital gain to be reported each year is one fifth of the taxable capital gain. If a reserve was claimed in 1991, it has to be brought back into income in 1992. If all of the proceeds are not due in 1992, a new reserve can be claimed. If the trust is claiming a reserve, complete Schedule 2. For more details on reserves, see the *Capital Gains Tax Guide* and Interpretation Bulletin IT-236, *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 of that loss can be deducted as an allowable capital loss on line 120 or 121 of Schedule 1. Alternatively, if the trust has never designated capital gains to beneficiaries, this deemed allowable capital loss can 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 *Farming Income Tax Guide*, the *Fishing Income Tax Guide*, or the *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 *Capital Gains Tax Guide* and Interpretation Bulletin IT-407, *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. (If you calculate an allowable capital loss on Form T1055, *Summary of Deemed Realizations*, see that form for a possible adjustment to this line).

Do not enter a loss amount on line 01. Capital losses, realized after May 22, 1985, can be used only to offset capital gains in the current year. Any excess becomes a net capital loss that can be applied against taxable capital gains in a previous or future year. A loss carryback to a previous year has to 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 have to be retained. For more details, see Information Circular 78-10, *Books and Records Retention/Destruction*.

Form T1055, *Summary of Deemed Realizations*

Deemed realization (disposition) — 21-year rule
104(4), (5), (5.1), (5.2)

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. The trust is required to report the resulting income, gains, or losses in the taxation year in which the dispositions are considered to have occurred. The dispositions will be reported on form T1055 and the total amount from line 42 will be entered on line 11 of the T3 return. This form also provides for adjustments to Schedule 1, line 122 and Schedule 12, line 1203. You do not need to calculate and report a deemed realization if a property is actually disposed of before the end of the taxation year and the actual disposition is reported elswhere on this return.

A trust is considered to have:

- disposed of these properties, at the end of the day on these specified dates, at fair market value; and
- reacquired them, immediately thereafter, at a cost equal to the same fair market value.

If the property is depreciable property of a prescribed class it is considered to be disposed of at the same specified date and time:

- at a value that 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, if the deemed disposition occurs before 1993; and
- at fair market value (like other capital property), if the deemed dispositon occurs after 1992.

Note that in the case of depreciable property, you have to report both capital gains and recapture of capital cost allowance.

If on June 18, 1971, and continuously thereafter, capital 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-132, *Capital Property Owned on December 31, 1971 — Non-Arm's Length Transactions*.

Pending legislation — From Notice of Ways and Means Motion tabled in the House of Commons on June 19, 1992, effective to 1991, and subsequent years

In addition to the properties referred to above, if a post-1971 testamentary spousal trust holds a NISA Fund No. 2, transferred to it on the death of the settlor, the trust has to report a deemed payment out of the fund on the day the beneficiary spouse dies. See guide item "Line 10, NISA Fund No. 2" for more details.

Pending legislation — From Notice of Ways and Means Motion tabled in the House of Commons on June 19, 1992, effective after February 11, 1991, unless otherwise noted

Deemed realization day 104(4)

The deemed realization day is the day the trust is considered to have disposed of its capital property, land inventory, and Canadian and foreign resource properties. 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 the trust was created, whichever date is later.

In 1992, a post-1971 spousal trust will be required to report a deemed realization if the beneficiary spouse dies in the year. The deemed realization will occur at the end of the day the beneficiary spouse dies.

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

- for a pre-1972 spousal trust on January 1, 1993:
  - the day the beneficiary spouse dies, or January 1, 1993, whichever date is later. See note.
- 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 realizations will occur every 21 years on the anniversary of the day established above.

Note

If the terms of a pre-1972 spousal trust are changed after February 11, 1991, and before 1993, so that the beneficiary spouse is no longer entitled to receive all the income of the trust, the deemed realization day will occur on January 1, 1993 (not on the day the beneficiary spouse dies).

See "Types of trusts" in this guide for definitions of pre-1972 and post-1971 spousal trusts.

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

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

- an amateur athlete trust
- an employee trust
- a master trust
- trusts governed by:
  - a deferred profit sharing plan
  - an employee benefit plan
  - an employees profit sharing plan
  - a foreign retirement arrangement
  - a registered education savings plan
  - a registered pension fund or plan
  - a registered retirement income fund
  - a registered retirement savings plan
  - a registered supplementary unemployment benefit plan
- a related segregated fund trust
- an RCA trust
- a trust whose direct beneficiaries are one of the above-mentioned trusts
- a communal organization
- a unit trust

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- a trust in which all interests have vested indefeasibly, and in which no interest can become effective in the future. This exemption does not apply to:
  - a post-1971 spousal trust;
  - a trust that has elected under subsection 104(5.3) (form T1015) to defer the deemed realization day; or
  - a trust that elected, in its return for the first taxation year ending after 1992, that this provision not apply.

  This provision is relevant primarily for those commercial trusts that do not qualify as unit trusts.

Pending Legislation — From Notice of Ways and Means Motion tabled in the House of Commons on June 19, 1992

Capital gains deduction 110.6(12)

A spousal trust may be able to reduce its taxable capital gain by claiming the unused portion of the beneficiary spouse's capital gains deduction. This deduction is available to a post-1971 spousal trust on the death of a beneficiary spouse. It is also available to a pre-1972 spousal trust reporting a deemed realization on the later of January 1, 1993, and the death of the beneficiary spouse, if the trust does not file a T1015 election. The capital gains deduction is calculated on Schedule 5 and claimed on line 53 of the T3 return.

Form T2223, *Election by a Trust to Defer Payment of Tax* 159(6.1) (7)

For 1993, and subsequent years, the trust can elect to pay the income tax arising from the deemed realization rule in up to 10 annual instalments. Make the election on form T2223. File the form at the district office no later than the day the T3 return is due for the taxation year the deemed realization 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.

Form T1015, *Election by a Trust to Defer the Deemed Realization Day* 104(5.3)

The trust can **elect** to postpone the deemed realization day **if** at least one living beneficiary of the trust qualified as an "exempt beneficiary" on the deemed realization day that would otherwise occur.

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

The effects of this election are:

- The deemed realization day is postponed to the first day of the first taxation year in which the trust does not have an exempt beneficiary. This would be the first day of the first taxation year following the death of the last exempt beneficiary.
- If, during the period described in the next sentence, trust property is distributed to 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. This rule applies to the period that begins on the day after the day that would have been the deemed realization day and ends on the newly determined deemed realization day.
- If, during the period described immediately above, the property is transferred to another trust, the property will be considered to have been disposed of for proceeds equal to its fair market value. This rule does not apply if there is merely a change of trustees and if the transferee trust held no assets before the transfer.

This election is not available to a post-1971 spousal trust when the beneficiary spouse dies. It can be used to postpone a subsequent deemed realization occurring on the twenty-first anniversary of the beneficiary spouse's death. It is available twice to a pre-1972 spousal trust — once on the first deemed realization that occurs on the later of the day the beneficiary spouse dies and January 1, 1993; and again on the realization that occurs 21 years later.

This election is available once to other trusts — on the first deemed realization, that occurs on the later of the day that is 21 years after the trust was created, and January 1, 1993.

Exempt beneficiary 104(5.4) (5.5)

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

1. the "designated contributor" of the trust, or the spouse or former spouse of the designated contributor;
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.

In addition to the above requirements, if the trust was created after February 11, 1991, the beneficiary, or a brother or sister of the beneficiary, must have been alive on the earlier of:

- the date the trust was created; and
- the earliest creation date of any trust transferring capital property, land inventory, or resource properties to the trust to which special rules apply. See "Transfer of trust property 104(5.8)" below.

To determine if a beneficiary is an exempt beneficiary:

- A beneficiary is generally a person who has any contingent or absolute right under the trust.
- No individual will be regarded as an exempt beneficiary if all the interests of beneficiaries depend on the discretion of a person, and if that discretion could be used to deny the individuals, or the children of deceased individuals, the enjoyment of any benefit in respect of their interests. (This provision applies to trusts created or varied after February 11, 1991.)
- An individual is considered not to be an exempt beneficiary if one of the main purposes for creating that person's right under the trust was to defer the application of the 21-year deemed realization rule.

Designated contributor 104(5.6) (5.7)

A designated contributor is:

- for a spousal trust — the individual who created, or whose will created, the trust;
- for a non-spousal testamentary trust, as of the end of the taxation year for which a T1015 election is made — the person whose death created the trust;
- for other trusts — a qualifying individual who was a beneficiary under the trust, or was related to a beneficiary under the trust, and who is designated by the trust on the T1015 election.

  An individual generally qualifies as a designated contributor of an inter vivos trust, if at each time in the "relevant period" the total amount of property transferred or loaned before that time by the individual to the trust:

  - was greater than the total amount transferred or loaned before that time by each other individual who was born **before** the designated individual, and was related to a trust beneficiary; and
  - was greater than, or equal to, the total amount transferred or loaned before that time by each other individual who was born **after** the designated individual and was related to a trust beneficiary.

  If no individual qualifies under the paragraph above, then the designated contributor may be the oldest individual who was related to the trust beneficiary, and who transferred or loaned property to the trust before the end of the relevant period.

  An individual also generally qualifies as a designated contributor where throughout the relevant period the property of the trust consisted primarily of:

  - shares of the capital stock of a corporation controlled (at the time the trust was created, or at the beginning of the relevant period) 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 control the corporation;
  - shares of the capital stock of a corporation where all or substantially all of the value comes (throughout the relevant period) from property transferred to the corporation by the individual, or by the individual and one or more persons born after and related to the individual;
  - shares in a holding corporation, if all or substantially all of their value comes from the above shares;
  - property substituted for the above shares;
  - property attributable to profits, gains, or distributions on the above properties; or
  - any combination of the above.

  To determine if an individual is a designated contributor:

  - "relevant period" refers to the period that begins one year after the day the trust was created and ends on the deemed realization day (if the election had not been filed);
  - two persons are considered to be related if one is the aunt, great-aunt, uncle, or great-uncle of the other; and
  - an individual is considered not to be a designated contributor if one of the main purposes of a series of transactions or events was to defer the application of the 21-year deemed realization rule. This would include events such as the acquisition of property, borrowing by an individual, and the individual's appointment as a trustee of the trust to allow the individual to be a designated contributor.

Transfer of trust property 104(5.8)

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 that occurs after the transfer, if the transfer had not been made;
- the transferee's deemed realization date that occurs after the transfer;
- the day after the transfer, if the transferee had filed a T1015 election, and the new disposition day has not occurred.
- the day after the transfer, if the transferee is a spousal trust and the beneficiary spouse is still alive at the time of the transfer.

  This last rule will not apply when the transfer took place:

  - on or before December 20, 1991, if **either** the transferor or transferee trust was a spousal trust;
  - after December 20, 1991, if **both** the transferor and transferee are spousal trusts.

The transferee trust can 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.

The following chart provides a summary of the options that may be available to a trust regarding the deemed realizations under the 21-year rule (subject to the provisions of the will or trust document).

Options	Post-1971 spousal trust (1992, and subsequent years)	Pre-1972 spousal trust (1993, and subsequent years)	Other trusts (and spousal trusts 21 years after first deemed disposition) (1993, and subsequent years)
Income/gains/losses from the deemed dispositions, taxed in the trust	yes	yes	yes
Elect to defer tax (form T2223) (applicable to 1993, and subsequent years)	yes	yes	yes
Claim capital gains deduction, in year in which beneficiary spouse dies (Schedule 5)	yes	yes	no
Allocate/designate capital gains and capital gains deduction (T3 Supplementary boxes 21 and 30)	no	yes	yes
Preferred beneficiary election	no	no	yes (no, if trust previously made a T1015 election)
Elect to defer deemed realization day, if trust has an exempt beneficiary (form T1015)	no (yes, 21 years after beneficiary spouse dies)	yes (twice)	yes (only on first deemed realization)

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

Complete 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:

- Schedule 1 — To calculate the reserve amount to include in, or exclude from, current-year capital gains;
- 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
- Schedule 12 — To calculate minimum tax, by segregating reserves relating to dispositions before 1986.

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

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

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

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

Lines 301 to 313
Part I. Trust's annual gains limit for current year

110.6

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

- 1992 taxable and deemed taxable capital gains (excluding reserves on dispositions that occurred before 1985, and all or a portion of the gains on non-qualifiying real property) less 1992 allowable capital losses (excluding all

or a portion of the losses on non-qualifiying real property);

exceeds the total of:

- net capital losses of other years claimed in 1992 (generally reduced by reserves on dispositions that occurred before 1985, and all or a portion of the gains and losses on non-qualifying real property), **and** 1992 allowable business investment losses.

Line 303
Non-qualifying real property

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Generally, capital gains on real property that accrue after February 1992, do not qualify for the capital gains deduction. Gains that accrued before March 1992, will continue to qualify.

Therefore, if the trust disposed of, or was deemed to have disposed of, "non-qualifying real property" after February 1992, a calculation is required to determine the amount that should be excluded from capital gains and losses, to determine the trust's taxable capital gains eligible for the capital gains deduction.

Include in this calculation non-qualifying real property that is:

- real estate;
- any of the following properties whose fair market value was derived principally from real estate: a share of a corporation; an interest in a partnership or trust; or, an interest or an option in such real estate, shares or interests.

To determine the non-qualifying amount, use the formula:

$$C \times \frac{D}{E}$$

In this formula:

C = gain or loss reported in the year, from the disposition or deemed dispostion;

D = number of full or part calendar months after February 1992, during which the trust owned the property; and

E = number of full or part calendar months after 1971, during which the trust owned the property.

The full amount of the taxable capital gains from the following real properties continues to qualify for the capital gains deduction. These properties should not be included in the calculation on this line:

- qualified farm property;
- real property used principally in an active business carried on by certain personal trusts, a preferred beneficiary of a personal trust, or by the preferred beneficiary's spouse, child, or parent. The property must have been so used, either:
  - at all times while the trust owned it during the 24-month period before the disposition; or
  - throughout all or substantially all of the time the trust owned it.

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 1992 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 1992 inclusive, from dispositions occurring in those years (excludes reserves on dispositions occurring before 1985, and all or a part of the non-qualifying real property gains and losses);

  exceeds

- the total of:
  - allowable business investment losses claimed in 1985 to 1992 inclusive; and
  - net capital losses of other years claimed in 1985 to 1992 inclusive (to the extent that they exceed reserves on dispositions that occurred before 1985, for 1988 and subsequent years, **and** all or a portion of the gains and losses on non-qualifying real property for 1992 and subsequent years); and
  - allowable capital losses deducted from other income in 1985 (not exceeding $2,000); and
  - cumulative net investment loss* at the end of 1992.

  Note *
  Use Schedule 4 to calculate cumulative net investment loss at the end of 1992.

Line 323
Adjusted cumulative loss amount reported in previous years

An adjustment will be required on line 323 if the trust claimed net capital losses of other years in a taxation year after 1987, and before 1992, and in the same year reported a pre-1985 reserve. The net capital losses of other years claimed in a year (from line 52) have to be reduced by the taxable portion of the pre-1985 reserve reported in the year (from Schedule 5C, line 575 and Schedule 2, line 215). The following chart will help you calculate this adjustment.

	1988	1989	1990	1991	
Net capital losses of other years claimed in the year, from line 52 (or for 1988 and 1989, from Schedule 5B, line 536 and for 1990 and 1991, from Schedule 3, line 307)	$	$	$	$	1
Reserves related to capital dispositions before 1985, from Schedule 5C, line 575 (1988 and 1989) and Schedule 2, line 215 (1990 and 1991)	$	$	$	$	2
Taxable portion of reserve • for 1988 and 1989, 2/3 of line 2 • for 1990 and 1991, 3/4 of line 2	$	$	$	$	3
Lesser of lines 1 and 3	$	$	$	$	4

Enter the total of the line 4 amounts on Schedule 3, line B, preceding line 323.

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 (see guide, "line 930"), or for a spousal trust claiming a capital gains deduction on 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 1991 inclusive).

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

Schedule 4
Calculation of Cumulative Net Investment Loss
Lines 401 to 433
110.6

Complete Schedule 4 if the trust is designating taxable capital gains to individual beneficiaries, or if it is a spousal trust claiming a capital gains deduction on Schedule 5. Complete this schedule even if the trust does not have a cumulative net investment loss (CNIL) on line 433.

The CNIL, calculated on line 433, reduces the trust's cumulative gains limit (calculated on Schedule 3, Part II). This reduces the trust's eligible taxable capital gain for the 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 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 to determine eligible taxable capital gains. The amount of eligible taxable capital gains is used to determine the capital gains deduction of an individual beneficiary, or of a spousal trust in the year in which the beneficiary spouse dies.

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

Complete the "Deceased spouse information" in Part A for a spousal trust in the taxation year during which the beneficiary spouse died and the trust is subject to the deemed realization rule. See guide item "Summary of Deemed Realizations."

Complete Part B to determine the capital gains deduction of the spousal trust. If the beneficiary spouse died in 1991, use the "Rev. 91" version of Schedule 5.

A post-1971 spousal trust can claim a capital gains deduction in the taxation year the beneficiary spouse dies. The deduction can be claimed 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.

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In 1993, and subsequent taxation years, a pre-1972 spousal trust can also claim this deduction when reporting a deemed realization on the later of January 1, 1993, and the day the beneficiary spouse dies. The trust can claim this deduction if the trustee does not file a T1015 election deferring the deemed realization. See guide item, "Election by a trust to defer the deemed realization day."

Before completing this schedule, you must calculate:

- the trust's eligible taxable capital gains (Schedule 3, line 334); and
- the spouse's unused lifetime capital gains deduction limit for the year 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.

Schedule 6
Calculation of Total Taxable Capital Gains Attributable to Qualified Farm Property or Qualified Small Business Corporation Shares
Lines 610 to 615
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 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 Schedule 9, "Footnotes for line 921 (and box 21)" and "Footnotes for line 930 (and box 30)."

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

Schedule 7
Statement of Pension Income Allocations and 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 can be designated to beneficiaries and the reason for the designation.

1. Box 22 — You can 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 cannot exceed the lesser of the pension income reported by the trust on line 02 of 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 the pension income non-refundable tax credit.
4. Box 36 — Report in box 36, the amounts designated to a minor beneficiary that can be used to acquire an annuity under paragraph 60(l).

For the purpose of designating pension income to a beneficiary, a spouse includes a common-law spouse of the opposite sex who was living in a conjugal relationship with the deceased at the time of death, 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 *Pension and RRSP Tax Guide*.

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

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 the form T3 Supplementary, box 23, and the 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 amounts the trust paid in the year under a securities lending arrangement that are deemed by subsection 260(5) of the *Income Tax 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 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 interest and other investment income, see the *General Tax Guide* and Interpretation Bulletin IT-396, *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 that the trust receives (other than dividends paid out of the capital dividend account) 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 paying out 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; and
- 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. If the trust is claiming interest expense, provide the following details: name of lender, date and amount of loan, interest rate, terms of repayment, and balance of loan at the end of the taxation year.

Carrying charges incurred on both Canadian and foreign investment income have to 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 1992 taxation year is 25% 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 dividends (after related expenses) **designated** to beneficiaries (the amount from Schedule 9, line 923). If dividends have been allocated (included in the amount on line 926 of 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% 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 line 49, page 2 of the T3 return, and onto line 1111, Schedule 11, or onto line 1217, Schedule 12, 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.*

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

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

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 beneficiary's income. "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.

We use the words "designated" and "designation" when we are applying some special provision of the *Income Tax Act*. 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 Schedule 9, line 926, "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 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 that are being flowed-through to the beneficiary.

For more details, see Interpretation Bulletins IT-342, *Trusts — Income Payable to Beneficiaries*, and IT-524, *Trusts — Flow Through of Taxable Dividends to a Beneficiary — After 1987*, and IT-381, *Trusts — Deduction of Amounts Paid or Payable to Beneficiaries and Flow-Through of Taxable Capital Gains to Beneficiaries.*

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

1. A post-1971 spousal trust cannot deduct deemed proceeds realized when capital property, land inventory, and Canadian and foreign resource property are distributed to someone other than the beneficiary spouse, while the beneficiary spouse is alive.
2. A post-1971 spousal trust cannot deduct proceeds realized from deemed dispositions of capital property, land inventory, and Canadian and foreign resource property that arose on the death of the beneficiary spouse. It also cannot deduct from its income the deemed payment from NISA Fund No. 2 that arose on the death of a beneficiary spouse.
3. Trust income that came from payments out of NISA Fund No. 2 cannot be deducted by any trust (except a testamentary spousal trust if received while the beneficiary spouse was alive).
4. A trust that was a post-1971 testamentary spousal trust on December 20, 1991, or is a spousal trust created after December 21, 1991, cannot deduct amounts payable in a taxation year to anyone except the beneficiary spouse while the beneficiary spouse is alive.
5. Certain inter vivos trusts created since 1934, in which property (or property substituted therefor) that has not been absolutely vested, is subject to the discretionary power of the property contributor, and could revert to the contributor or pass to persons to be 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-369, *Attribution of Trust Income to Settlor.*
6. **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:

   - Losses of an insurer's related segregated fund trust: Report these losses in box 37 on the beneficiary's T3 Supplementary.
   - Losses of revocable trusts and from "blind trusts": Report these losses in brackets in the appropriate box on a separate T3 Supplementary for the beneficiary. Clearly indicate the type of loss on the T3 Supplementary in the footnote space.
7. **Designated income to be taxed in trust** 104(13.1), 104(13.2), 108(1)(j) — A trust can 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 has to 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). You make the choice 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 can 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 can 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 non-capital loss carryforward from a previous taxation year and current year taxable capital gains. By using subsection 104(13.2) provisions, the trust can choose not to deduct the full amount to which it is entitled under subsection 104(6), thereby allowing the 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 has to 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) cannot be made, changed, or withdrawn.

Additional details are provided in Interpretation Bulletins IT-342, *Trusts — Income Payable to Beneficiaries*, and IT-381, *Trusts — Deduction of Amounts Paid or Payable to Beneficiaries and Flow-Through of Taxable Capital Gains 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 = beneficiary's share of trust income (calculated without reference to the *Income Tax Act*).

B = total of amount A for all beneficiaries.

C = trust income (calculated 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 = 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 = 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)

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

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

B = total of amount A for all beneficiaries.

C = 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

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

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

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

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

1/2 × 1,000 = $500 each for X and Y.

The total designations would be:

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

Part A
Application of expenses against specific types of income before allocations or designations
Lines 901 to 912

Expenses deducted on line 41 have to 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 have to be apportioned 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*.

Pending legislation — From Notice of Ways and Means Motion tabled in the House of Commons on June 19, 1992, effective for 1991, and subsequent taxation years

If income from NISA Fund No. 2 is reported on line 10, include on line 910 only the amount that relates to actual payments made to the trust while the beneficiary spouse was alive. All other NISA Fund No. 2 amounts are taxable in the trust.

Part B
Total income allocations or 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). See 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 beneficiary's income. These income amounts are indicated 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 in box 26 of the T3 Supplementary). If the income is being designated, the amounts can 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-286, *Trusts — Amounts Payable*, and IT-342, *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 income paid or payable to non-resident beneficiaries. The different types of income retain their identity **on this schedule** in order 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 cannot be designated. Therefore, the different types of income lose their identity when allocated to the non-resident beneficiaries. The total of the amounts in column II should be reported as "Estate or trust income" on the NR4B Supplementary form, not 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 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 "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 1992. The trustee and a preferred beneficiary may jointly elect to have this accumulating income taxed in the hands of the preferred beneficiary in 1992. See "Preferred beneficiary" and "Preferred beneficiary election" below. Complete a separate T3 Supplementary form for this elective income.

The following types of trust income can 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 have to be made by the trust in its return for the year in which the relevant amounts are included in the trust's income.

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;
- the spouse or former spouse of the settlor of the trust;
- 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 can then deduct from its income, the amount elected to be included in the preferred beneficiary's income. The amount elected has to be stipulated in the election and must not exceed the preferred beneficiary's share in the accumulating income.

In the case of spousal trust (both pre-1972 and post-1971), the income (taxable capital gains less allowable capital losses, and other income) arising as a result of the deemed disposition of property under subsections 104(4), 104(5), 104(5.2), and 107(4) is excluded from accumulating income. Also excluded is income from these sources for which any trust has previously filed a subsection 104(5.3) election. These deemed dispositions are discussed in the guide under the heading "Deemed realization (disposition) — 21-year rule." Also excluded are all amounts paid or deemed to have been paid from NISA Fund No. 2. (There is one exception — a preferred beneficiary election could include amounts paid to a testamentary spousal trust while the beneficiary spouse was still alive.) Trusts which are excluded from the 21-year rule are also excluded from making a preferred beneficiary election. They are listed in this guide under "Exemption from the 21-year rule."

A preferred beneficiary election for 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 information about the provisions of the trust and its administration as is necessary for the purpose.

The election has to be filed, with the T3 return or separately, within 90 days of 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 has to be filed on time. Usually, 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 have to be followed each year that a preferred beneficiary election is made.

In some circumstances (usually ones beyond the control of the trustee), we may accept a late or amended election, or revoke a valid election. Before asking us to consider accepting a late, amended, or revoked election, you should see Information Circular 92-1, *Guidelines for Accepting Late, Amended or Revoked Elections*. You should also obtain a copy of Information Circular 92-2, *Guidelines for the Cancellation and Waiver of Interest and Penalties*. A late, amended, or revoked election is subject to a penalty of $100 for each complete month from the due date of the election to the date of the request (maximum $8,000).

Anyone making a preferred beneficiary election should obtain Interpretation Bulletin IT-394, *Preferred Beneficiary Election*, which deals with the subject in detail.

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

All or a portion of a Canadian resident trust's **net taxable capital gains** may be allocated to a beneficiary. If such an allocation takes place, the amount 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.

Complete the following chart to determine the amount that can be designated.

Net taxable capital gains

Taxable capital gains less allowable capital losses (from Schedule 1, line 122 and form T1055, line 25)	$ ______	(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)
Amounts from Schedule 9, line 901, and form T1055, line 25*	$ ______	(5)
Amount from T3 return, page 2, line 46	$ ______	(6)
Net taxable capital gains designated in current year (The designated amount cannot exceed the least of amounts (4), (5), and (6))	$ ______	(9)

Enter the designated amount on Schedule 9, line 921 (excluding deemed taxable capital gains on eligible capital property which are reported on line 926.)

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

The amount to be entered on the T3 Supplementary in box 21 is the **capital gain** amount which is four-thirds of the beneficiary's share of the **net taxable capital gains** amount on line 921.

If you complete line 921, you will also have to complete line 9'' for purposes of the beneficiary's capital gains deduction.

Footnotes for line 921 (and box 21)

The trust may have disposed of qualified farm property or qualified small business corporation shares. If so, and if the trust 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:

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

where

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

B = Total of positive amounts from 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 on Schedule 9, line 921-1 (footnotes for box 21).

Enter the total of the amounts determined at D for qualified small business corporation shares on Schedule 9, line 921-2 (footnotes for box 21).

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

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 can 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 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 Schedule 1, lines 120 and 121. As well,

show the breakdown of these amounts in the footnotes for box 26.

Footnotes for line 926 (and box 26)

Enter the amount in the appropriate space: line 926-1 "Eligible capital property — Qualified farm property (QFP)," or line 926-2 "Eligible capital property — Other."

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 to identify farming and fishing income for a block-averaging election.

A communal organization should enter on this line the total amount of business income (farming, fishing, and other business) allocated to a member of a communal organization. Amounts in respect of business income received by the member from the communal organization qualify as self-employed earnings for purposes of determining Canada Pension Plan contributions. If the amount on line 927 includes business income, **other** than from farming and fishing, put an asterisk (*) beside the amount on line 927. Indicate the amount of "Other business income" on line 927-1 (footnote for box 27.)

Line 928
Total

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

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
Taxable capital gains eligible for deduction
104(21.2)

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

Calculate the trust's eligible taxable capital gains on Schedule 3, line 334.

Complete the following chart and use the 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 Schedule 4, line 412)	$ ________ (12)	
Less: Total investment income reported in current year (from Schedule 4, line 430)	$ ________ (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)

$$\frac{E}{F} \times G = H$$

where:

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

F = amount from line (17) above.

G = eligible taxable capital gains, amount from Schedule 3, line 334.

H = particular beneficiary's share of the trust's eligible taxable capital gains.

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

On the T3 Supplementary in box 30, enter four-thirds of the amount determined in H.

Note

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

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.

$$\frac{J}{K} \times L = M$$

where:

J = positive amount from Schedule 6, line 615, column 1, 2, or 3.

K = total of positive amount from Schedule 6, line 615, 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 on Schedule 9, line 930-1 (footnotes for box 30).

Enter the total of the amounts determined at M for qualified small business corporation shares on Schedule 9, line 930-2 (footnotes for box 30).

If line 615 and line M include deemed taxable capital gains from the disposition of eligible capital property, indicate these amounts in footnotes for box 26, not in footnotes for box 30.

Line 931
Eligible pension income
104(27), 118(3), 118(7)

Testamentary trusts can 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 of a life annuity from a superannuation or pension fund. See 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 has to 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 has to be in proportion to the foreign income designated to that beneficiary. Foreign taxes paid in foreign currency have to be converted to Canadian funds.

Please see Interpretation Bulletins IT-270, *Foreign Tax Credit*, and IT-201, *Foreign Tax Credit — Trusts and Beneficiaries*, 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, usually 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 that is eligible for this exemption. The beneficiary uses this information to calculate the taxable portion to be reported on the individual's T1 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 (not box 35) should be completed on the T3 Supplementary. See guide item, "line 19."

Payments from the Canada Pension Plan (CPP) and the Quebec Pension Plan (QPP) 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 Schedule 7;
- retiring allowances (from line 19) that 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.

A lump-sum payment out of a registered pension plan can be designated by a testamentary trust to a beneficiary to acquire 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 when the deceased person died. See guide item "Taxation year, testamentary trust."

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

Enter the amount from Schedule 10, Part A, line 1010. The Part XII.2 tax credit can 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) can 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), *Investment Tax Credit (Individuals)*, 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 the T2038(IND) form that is designated to a beneficiary and not deducted by the trust on Schedule 11, line 1120.

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

Note

You have to 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.

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

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 Schedule 10. Part XII.2 tax is payable within 90 days of 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; or
- 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 Schedule 10 to avoid 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 Part XII.2 tax the trust paid. 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 has to 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 has to be included in the beneficiary's income. The credit, in effect, replaces the income that the beneficiary would have received if the trust did not have 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, Schedule 9, Part B, line 928. Line 1007 then has to 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, 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

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 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 to determine the amount of refundable tax credit to report in box 38 of the T3 Supplementary for each beneficiary:

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

where:

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

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

C = 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 $1,400 net income of the trust for 1992 represents:

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

On 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, since there are no other sources of specified income (the $400 interest is not specified income);
- **enter** $1,400 on line 1007, since this is the total amount from columns I and II on 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 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 1992, 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 portion of the trust income that was to be distributed to her according to the terms of the trust agreement. On 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 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
Part XIII Tax, 212(1)(c)

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

Non-resident beneficiaries

Every non-resident person has to pay 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. Part XIII tax is paid on amounts that a Canadian trust paid or credited, or is considered to have paid or credited, to non-residents for income from the trust. The trustee has to withhold and remit tax on these amounts. This tax has to be received by the Department or by a Canadian financial institution on or before 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 Schedule 10, Part B. Any balance due should be sent to us accompanied by Form PD7AR-NR, *Non-Resident Tax Remittance*, 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 also have to complete Form NR4B, *Return of Amounts Paid or Credited to Non-Residents of Canada Summary*, and Form NR4B, *Statement of Amounts Paid or Credited to Non-Residents of Canada Supplementary*. These forms are available from your district office.

Completing the NR4B return

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. 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 Schedule 10, Part B, line 1028. Total non-resident tax withheld on the NR4B Summary should agree with the non-resident tax payable on 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 (NR4B income code 11/box 16), 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.

Distributing the NR4B return
Regulation 202(8)

Within 90 days of the end of the trust's taxation year, the NR4B Summary and Supplementary forms have to be distributed as follows:

NR4B Supplementary, copies 1 and 2 **and** NR4B Summary, copies 1, 2, and 3. Send to:

Infomation Processing
Ottawa Taxation Office
Revenue Canada
875 Heron Road
Ottawa, Ontario K1A 1G9.

NR4B Supplementary, copies 3 and 4: Send these copies to the beneficiary's last known address.

NR4B Supplementary, copy 5 **and** NR4B Summary, copy 4: Keep these copies with the trust records.

The *Guide for Payers of Non-Resident Tax* outlines procedures for reporting amounts paid or credited to non-residents of Canada, and explains how to complete the NR4B return. This guide is available at the International Taxation Office at 2540 Lancaster Road, Ottawa, Ontario, K1A 1A8, or at your district office.

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

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

Line 1101
Testamentary trusts

All testamentary trusts are taxed using the 1992 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 1992;
- it did not carry on any active business in 1992;
- 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-406, *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
Income Tax Application Rules (ITAR) 40

Use this line when adding to the trust's tax such items as the reduced tax that applies on lump-sum payments under ITAR 40. You do not 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 can claim on dividends received in the 1992 taxation year.

The dividend tax credit is 66.67% (2/3) of the gross-up amount calculated on 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 has to be claimed on the deceased taxpayer's T1 return, either in the year of death or in the year before the year of death. If necessary, we will reassess the T1 returns to allow the claim.
- If the donation is not a one-time payment but will continue according to the terms of the will, treat the

charity as an income beneficiary and deduct the donation as an allocation of trust income on the T3 return (page 2, line 47, and Schedule 9, Part B, line 926).

- If the will provides that a donation can be made at the discretion of the trustee, the trustee can choose to treat the charity as an income beneficiary and deduct the amount on line 47, or claim a non-refundable tax credit on 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 was a one-time or periodic payment provided in the will, or was made at the trustee's discretion.

Inter vivos trust

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

All donation claims have to be accompanied by an official receipt. There are three classes of donations:

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

Maximum claim and carry over

When you use the non-refundable tax credit method, the maximum claim in a year for charitable donations, referred to in item 1 above, is limited to 20% of the trust's net income, 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.

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

Line 1113
Minimum tax carry-over from previous year
120.2

If the trust paid minimum tax in the 1986 to 1991 taxation years, you can deduct part or all of that amount from 1992 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 carry-over.

Calculating minimum tax carry-over

Minimum tax carry-over from previous years which can be applied in 1992			
Minimum tax carry-over available (from 1991 Schedule 12, line 1269, or this table (1991), line (J))			$ ________ (a)
Tax payable immediately before minimum tax carry-over (1992 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 1992 Schedule 12, line 1232)		$ ________ (g)	
Maximum amount of minimum tax carry-over which can be applied in 1992			
Subtract line (g) from line (f)		$ ________ (h)	
Minimum tax carry-over from previous year, applied in 1992			
Claim an amount not exceeding the lesser of (a) or (h) (Enter this amount on Schedule 11, line 1113)			$ ________ (i)
Minimum tax carry-over available for 1993			
Subtract line (i) from line (a)			$ ________ (j)

Include a copy of this calculation with the T3 return when you claim a minimum tax carry-over. If there is a balance, 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 a 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 help 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 foreign government on income earned outside Canada. In general, the foreign tax credit that can be claimed for each foreign country cannot exceed the lesser of:

- the tax 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 Schedule 11, line 1125 as an "Additional federal foreign tax credit" when computing the "Individual surtax payable" amount on Schedule 11, line 1128. For details of all these calculations, obtain Form T2209, *Calculation of Federal Foreign Tax Credit*.

If an excess amount of foreign business income tax, commonly referred to as "unused foreign tax credit" still remains, it can be applied back to the three preceding years, or carried forward to the seven years 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 cannot be carried forward. Some or all of the excess can be claimed as a provincial foreign tax credit on Form T2036, *Calculation of Provincial Foreign Tax Credit*, 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.

Attach proof 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-270, *Foreign Tax Credit*, and IT-201, *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 Schedule 11, line 1118.

Line 1119
Federal political contribution tax credit
127(3), 230.1(1)

The trust can claim this credit if it contributed to a registered federal political party or to a candidate for election to the House of Commons. Calculate the credit using the chart below and enter the credit on line 1119. If the total federal political contributions are over $1,150, enter $500 on line 1119. 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 (unless the amount is indicated on form T5013 Supplementary, box 21, or in the financial information from a partnership.)

Calculating federal political contribution tax credit

Total federal political contributions (enter this amount on line C of line 1119)	$ ________
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 Schedule 11, line 1119, "Federal political contribution tax credit."

For more details, see Information Circular 75-2, *Contributions to a Registered Political Party or to a Candidate at a Federal Election*.

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 Credit (Individuals)*. Investment tax credits can be earned, for example, on certain buildings, machinery, or equipment to be used in Canada for 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 1992;
- a credit is being carried forward;
- a credit is being carried back to previous years; or
- a refundable investment tax credit is claimed in 1992 (on line 88, page 4 of the T3 return).

The cost of eligible properties or expenditures has to be reduced by a portion of the credit deducted, or refunded. The reduction takes place in the year after the:

- credit is claimed; or
- 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 1993 by any ITC which is earned in 1992, and which is claimed or refunded on the 1992 return, or applied back to a previous year.

Investment tax credits, calculated on eligible property acquired, or an eligible expenditure made, by a trust before 11:00 a.m. eastern time, 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 can 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 Schedule 9, Part B, line 941, and has to be excluded when computing the trust's ITC 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 *Business and Professional Income Tax Guide*; the *Farming Income Tax Guide*, or the *Fishing Income Tax Guide*; Interpretation Bulletin IT-331, *Investment Tax Credit*, and Information Circular 78-4, *Investment Tax Credit Rates*, and its Special Release dated November 13, 1987.

Line 1121
Other credits

The federal logging tax credit (subsection 127(1)) is an example of an amount that you can claim on this line.

Note

Minimum tax — For situations in which the trust may have to pay minimum tax, and have to complete Schedule 12 instead of continuing on Schedule 11, see guide item "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 have to pay an individual surtax of 4.5% (reduced to 3% for 1993, and subsequent years), calculated on the following amounts:

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

An additional 5% surtax is applied on the **amount** by which the amounts described in 1 or 2 above exceed $12,500.

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
180.1(1.1)

The additional federal foreign tax credit (FFTC), calculated on Form T2209, *Calculation of Federal Foreign Tax Credit*, 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 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 Schedule 11, line 1125, or if the trust is subject to minimum tax, on 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, and area F on Schedule 11, line 1125, or if the trust is subject to minimum tax, on Schedule 12, line 1251.

Line 1127
Additional investment tax credit
180.1(1.2)

Calculate the additional investment tax credit to be deducted from the individual surtax payable on

Form T2038(IND), *Investment Tax Credit-Individuals*, section II.

The individual surtax can be reduced by the lesser of:

- unused investment tax credit determined on line E of form T2038(IND); and
- three quarters of the amount (line 1126 on Schedule 11, or line 1252 on 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 instead of direct cost-sharing by the federal government under federal-provincial fiscal arrangements.

Obtain Form T2203, *Calculation of Tax in Respect of Multiple Jurisdictions*, 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 Quebec and had income from a business with a permanent establishment in Quebec.

Schedule 12
Calculation of Minimum Tax
Lines 1201 to 1269
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;* and
- a spousal trust reporting a deemed realization under the 21-year rule.

Any other trust is liable to pay a minimum tax if the net minimum tax payable (Schedule 12, line 1234) exceeds the regular tax payable (Schedule 12, line 1237). Any of the following conditions may attract minimum tax for 1992:

- Taxable dividends are reported (on page 2, line 03).
- Taxable capital gains are reported (on page 2, line 01).
- Under ITAR 40, an election is made on pension benefits (on page 2, line 02 and on 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); or
  - certified films or videotapes (on page 2, line 06).
- A loss is claimed resulting from, or increased by, resource and depletion allowances on resource properties (on page 2, line 06 or 19).

Complete Schedule 12 to determine the net adjusted taxable income for minimum tax. Basically, Schedule 12 recalculates taxable income by **adding back** the following amounts:

- non-taxable portion of capital gains, minus an amount equal 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, "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 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. We have provided explanations of certain lines 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 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 1992 taxable capital gains on Schedule 1:

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

To make the adjustment, use the following table. (If you completed Form T1055, *Summary of Deemed Realizations*, you should make the adjustment on that form).

Adjusted line 1203

Calculating non-taxable portion of capital gains reported and retained in the trust for 1992 (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, Schedule 1				$	(a)
Add:					
LPP loss (1985 and previous dispositions) 1/4 of line 108, Schedule 1*	$	(b)			
Reserve (1985 and previous dispositions) 1/4 of amounts in column 2, lines 210 and 215, 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 and 215, Schedule 2	$	(f)			
Net taxable capital gains allocated or designated, 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 Schedule 12, line 1203. If amount is negative, indicate 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 enter on line 1224, is one-third 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 "Schedule 11, line 1101.")

The $40,000 has to 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 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

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

Line 1256
Refundable Quebec abatement

See guide item "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, can be carried forward and deducted from the regular tax liability in subsequent years (Schedule 11, line 1113).

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.

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

Schedule 14 provides space to calculate 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 has to 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 foreign country 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, *Calculation of Provincial Foreign Tax Credit*, 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 or territory, is subject to provincial (or territorial) tax on the business income earned in that province or territory.

A non-resident trust, carrying on a business in Canada without a permanent establishment in Canada, may be subject to the federal surtax (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.

Lines 1314, 1324, 1414, 1452, 1467, 1472, and 1482
Political contribution tax credit for Prince Edward Island, Nova Scotia, Manitoba, Alberta, British Columbia, Northwest Territories, and the Yukon Territory

A trust can 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 or territory; and
- a registered candidate seeking election to the legislature of that province or 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 has to be attached to this return.

The allowable credit is calculated for **Prince Edward Island, Nova Scotia, Manitoba, British Columbia, and the Yukon Territory** as follows:

Total political contributions in the year	$ ________	*1
Allowable credit:		
75% of first $100 of total contributions	$ ________	
50% of next $450 of total contributions	$ ________	
33 1/3% of total contributions exceeding $550	$ ________	
Total allowable credit (maximum $500)	$ ________	*2

For **Alberta**, the allowable credit is calculated as follows:

Total Alberta political contributions in the year	$ ________	*1
Allowable credit:		
75% of first $150 of total contributions	$ ________	
50% of next $675 of total contributions	$ ________	
33 1/3% of total contributions exceeding $825	$ ________	
Total allowable credit (maximum $750)	$ ________	*2

For the **Northwest Territories** the allowable credit is calculated as follows:

Total Northwest Territories political contributions in the year	$ ________	*1
Allowable credit:		
100% of first $100 of total contributions	$ ________	
50% of total contribution exceeding $100	$ ________	
Total allowable credit (maximum $500)	$ ________	*2

*1 and *2 Enter these amounts in the appropriate lines on the provincial or territorial schedule.

Line 1345
Ontario tax reduction

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

Line 1403
Net income tax (Manitoba)

The 2% tax on line 1403 is generally applied to an amount that is the net income of the trust determined on line 50, 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.

A mutual fund trust that is subject to only the net income tax for capital gains may still be eligible for a capital gains refund. See Form T184, *Calculation of Capital Gains Refund for a Mutual Fund Trust.*

Line 1415
Manitoba manufacturing investment tax credit

The Manitoba manufacturing investment tax credit was available for qualified property acquired after April 24, 1984, and before 1987. The trust can retain the total credit or any part of it and claim this credit 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 trust retained the credit, enter on 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 state "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 for seven taxation years. Claim these unused tax credits on 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 can be designated to members (beneficiaries) of the communal organization. (Schedule 9, lines 943 and 944).

Line 1444
Alberta royalty tax rebate

If, during 1992, the trust paid royalties or similar payments to the federal or a provincial government for 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 have to complete Form T79, *Alberta Royalty Tax Rebate Calculation and Application (Individuals)*, available from your district office, and attach it to the T3 return. The Alberta royalty tax rebate calculated on form T79 is entered on Schedule 14, line 1444.

Note

Claim the Alberta royalty credit (formerly the Alberta royalty tax credit) for 1991, and subsequent years, by filing the appropriate forms with:

Alberta Treasury, Corporate Tax Administration
9811 — 109 Street
Edmonton, Alberta T5K 2L5.
You can 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, *British Columbia Royalty and Deemed Income Rebate Calculation and Application*, and enter the result on Schedule 14, line 1462.

T3 Supplementary and T3 Summary

You have to complete a T3 Supplementary form for all amounts allocated or designated to a resident beneficiary unless the total amount allocated in the year to that beneficiary was less than $100 and consisted solely of interest income. If there is an election to report income by a prefered beneficiary, and income is also paid to the same beneficiary, it is preferable to complete two separate T3 Supplementary forms, one for income for 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 Supplementary forms. 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 us one completed paper copy of the T3 Summary with a tape or diskette before the filing deadline. You do not have to submit the Department's paper copy of the T3 Supplementary forms.

Anyone who would like to participate in the magnetic media filing program for the first time has to 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 has to conform to the specifications for the year of filing, i.e., if the taxation year ends in 1992, use 1992 specifications.

For more details, obtain the booklet T4094, *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:

Magnetic Media Processing Unit
Ottawa Taxation Centre
Revenue Canada
Ottawa, Ontario K1A 1A2

or telephone 1-800-665-5164.

Failing to provide a social insurance number (SIN)

Individuals have to provide their social insurance number, when requested, to any person who has to prepare supplementaries for them. Penalties for failing to provide a SIN apply to both the filer and the individual.

- **Trustee (filer)** — Any filer required to prepare a *Trust Income Tax Return and Information Return* has to try to obtain the SINs of individuals for whom supplementaries are being prepared. Each time you do not show the required information on a supplementary, you are liable to a $100 penalty, unless you tried to obtain the information.

  The penalty does not apply if an individual has applied for, but has not received the SIN when the return is required to be filed.

  The filer should advise (preferably in writing) existing clients that have not yet given their SINs, of the requirement to provide their SINs and the penalty for failing to do so. The filer should ask new clients to give their SINs whenever they open a new account or enter into a transaction that may require the preparation of a supplementary.

- **Beneficiary (individual)** — Individuals resident or employed in Canada have to give their SIN on request to any person who has to prepare an information return for them. If the individual does not have a SIN, he or she has to apply for one at any Canada Employment Centre within 15 days of the request. When the individual receives the SIN, he or she then has 15 days to give the SIN to the person preparing the information return. Individuals who, for any reason, do not comply with these requirements are liable to a penalty of $100 for each failure.

For more information about SIN reporting requirements and the penalties that may apply, see Information Circular 82-2, *Social Insurance Number Legislation as it Relates to the Preparation of Information Slips*.

Use of the social insurance number

Any person who has to make an information return cannot knowingly use, communicate, or allow an individual's SIN to be communicated, other than required or authorized by law, or for a purpose for which it was provided by the individual.

Interest on penalties

We charge interest, compounded daily, at the prescribed rate on the total amount of penalties levied. Both interest and penalties are payable to the Receiver General.

Completing the T3 Supplementary form

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 that the trust received, 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 trust's fiscal year end for which you are preparing the T3 Supplementary. Use numbers to indicate the month. For example if the fiscal year (taxation year) ends in November 1992, enter "1992" and "11" in the spaces provided for the year and month.

*Box 21

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 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 the amount is zero, enter "0."

If box 21 includes capital gains from qualified farm property or qualified small business corporation shares, these amounts have to 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 items "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 Schedule 9, line 922. See Schedule 7, "Pension Income Allocations or Designations" for more details.

Box 23

Enter the designated portion of the actual amount of taxable dividends received from taxable Canadian corporations from Schedule 9, line 923.

Box 24

Enter the designated portion of the gross foreign business income from Schedule 9, line 924.

Box 25

Enter the designated portion of the gross foreign non-business income from 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 Schedule 9, line 927 that qualifies for a section 119 election under block-averaging provisions.

A communal organization will include all business income in this box. If box 27 includes income from a business, that is not farming or fishing, put an asterisk (*) beside the amount. In the footnote space, add a note: "includes other business income of $__________." (Insert amount.)

*Box 30

If you completed box 21, you have to put an amount (or "0") in box 30. 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 the amount is zero, enter "0." 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 items "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 — 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, "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 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 "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 Schedule 9, line 940 and 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), *Investment Tax Credit (Individuals)*, and insert the applicable code in the footnote space under box 41. (See Schedule 9, line 941 and 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. (Schedule 9, line 942). See guide item "Schedule 14, line 1415."
- Saskatchewan livestock investment tax credit (SLITC) designated. (Schedule 9, line 943). See guide item "Schedule 14, lines 1430 to 1432."
- Saskatchewan livestock facilities tax credit (SLFTC) designated. (Schedule 9, line 944). See guide item "Schedule 14, lines 1430 to 1432."

When more than one credit is designated to a beneficiary, prepare separate T3 Supplementary forms for each credit. **These three credits are the only credits you can 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. The 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 this is
0	the original supplementary
2	an amended supplementary
4	an additional supplementary
5	a supplementary to cancel 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.

Use code 4, if more than one entry is required in a box (example, box 42) or if more than one original slip is required (for example, a separate slip is prepared for a preferred beneficiary election.)

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 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 or 5, you have to file an amended T3 Summary, T3 return, and 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 entreprise, 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 the capital gains deduction, and to use the lesser amounts from box 30 and box 26 to prepare Form T657, *Calculation of Capital Gains Deduction on All Capital Property*, or Form T657A, *Calculation of Capital Gains Deduction on Other Property*.
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 asterisk(*) 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 asterisk* 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 asterisk* 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 of the end of the trust's taxation year. For addresses and more details on filing requirements, see "General information" at the front of this guide.
Copies 2 and 3:	Send to the beneficiary's last known address within 90 days of 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 or fishing income:	Box 27 — Net amount			$ 2,500.00
Other income:	Interest income	$2,000.00		
	Less: Carrying charges	$ 200.00	$1,800.00	
	Rental income (net)		$2,000.00	
	Upkeep, maintenance		$ 500.00	
	Box 26 — Other income		$4,300.00	$ 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 1992 Année	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
Month 12	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
Mois Fin d'année de la fiducie	37 Insur. Segregated Fund Losses Pertes sur fonds réservé 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	Investment Tax Credit - Crédit d'impôt à l'investissement 40 Investment Investissement	41 Tax Credit Crédit d'impôt	Other Tax Credit — Autre crédit d'impôt 42 Type Genre	Amount Montant
	12 Social Insurance Number Numéro d'assurance sociale 123 456 789	14 Account Number Numéro de compte T	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

Beneficiary, John
100 8th Street
Anytown, Canada
T3T 3T3

NAME OF TRUST / MAILING ADDRESS OF TRUSTEE
NOM DE LA FIDUCIE / ADRESSE POSTALE DU FIDUCIAIRE

Estate of William Martin
c/o A. Trustee
100 C Street
Anytown, Canada
T3S 3T3

• **For Taxation Office**
• ***Pour le bureau d'impôt***

1

Revenue Canada Taxation | Revenu Canada Impôt

T3 Supplementary - Supplémentaire Rev. 92

STATEMENT OF TRUST INCOME
ÉTAT DES REVENUS DE FIDUCIE

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 Supplementary forms issued

Enter the total number of T3 Supplementary forms 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 Supplementary forms.

Summary of footnote amounts

The footnote amounts are amounts that are included in boxes 21, 26, 27, 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 the T3 Summary form to us, **with** copy 1 of the related T3 Supplementary forms, within 90 days of the end of the trust's taxation year. For addresses and more information on filing requirements, see "General 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 have to include a completed T3 Summary.

Corrections, amendments, and replacements

If you use codes 2 or 5 in box 16 on the T3 Supplementary forms, you have to file an amended T3 Summary with revised totals. If applicable, you must also file an amended T3 return and Schedule 9.

Clearly print the word "AMENDED" at the top of the amended Summary, T3 return and Schedule 9.

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T3 Summary
Rev. 92

FOR DEPARTMENTAL USE ONLY

- To be completed if, in the year, trust income was allocated / designated to a resident beneficiary, or a preferred beneficiary election was made.
- 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 T

Name of Trustee / Executor / Administrator

Telephone Number ( )

Mailing address of Trustee / Executor / Administrator

Postal Code

Return for taxation year: From Day Month Year To Day Month Year

No. of T3 Supplementaries filed 10

T3 SUPPLEMENTARY TOTALS

Summary of Income Allocated / Designated to Resident Beneficiaries, including by preferred beneficiary election

Item	Box	Amount
Capital Gains	21	
Pension Benefits	22	
Actual Amount of Dividends - TCC	23	
Foreign Business Income	24	
Foreign Non-Business Income	25	
Other Income	26	
Farming / Fishing Income	27	

Summary of Other Amounts Designated to Resident Beneficiaries, including by preferred beneficiary election

Item	Box	Amount
Capital Gains Eligible for Deduction	30	
Eligible Pension Income	31	
Taxable Amount of Dividends - TCC	32	
Foreign Business Income Tax Paid	33	
Foreign Non-Business Income Tax Paid	34	
Death Benefits	35	
MISCELLANEOUS AMOUNTS IN BOX 36		
Pension Income Eligible for 60 (l) Transfer	36-1	
Retiring Allowance Eligible for 60 (j.1) Transfer	36-2	
Charitable Donations	36-3	
Insurance Segregated Fund Losses	37	
Part XII.2 Tax Credit	38	
Federal Dividend Tax Credit - TCC	39	
Investment for ITC	40	
Investment Tax Credit (ITC)	41	
OTHER TAX CREDITS		
Manitoba Manufacturing Investment Tax Credit	42-1	
Saskatchewan Livestock Investment Tax Credit	42-2	
Saskatchewan Livestock Facilities Tax Credit	42-3	

Summary of Footnote amounts

Item	Amount
Box 21 – Qualified Farm Property	
Box 21 – Qualified Small Business Corporation Shares	
Box 26 – Eligible Capital Property - Qualified Farm Property	
Box 26 – Eligible Capital Property - Other	
Box 27 – Other Business Income	
Box 30 – Qualified Farm Property	
Box 30 – Qualified Small Business Corporation Shares	

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

Cette formule est disponible en français.

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 a spousal trust acquired the property, if at the time both the settlor and the trust were resident in Canada. The spousal 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 spousal trust**, and the settlor was resident in Canada just before his or her death, and the trust was resident in Canada just 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 just before death.

70(5)

If the property was acquired **by bequest or inheritance**, and the trust is not a spousal trust meeting the conditions described in the above paragraph, the **cost** of each property (acquired before 1993) is an amount that is the average 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 just before death. If the property is acquired after 1992, the cost will equal the fair market value of the property just before the settlor's 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 just 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 just before death (unless the legal representative of the deceased elects otherwise). For more information, see Interpretation Bulletin, IT-349, *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 when 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 just 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, just 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, see Interpretation Bulletin, IT-268, *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 deceased's final T1 return;
- amounts to be reported on the estate's T3 return; and
- non-taxable amounts.

1. Amounts to be reported on the deceased's final T1 return

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 deceased's final T1 return, 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's 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 estate's T3 return

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	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 can be reported on another return. The following table describes the conditions and the other returns on which a right or thing can 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 can be obtained from your district office. When requesting a publication, always ask for the most current version.

Guides

General Tax Guide

T4001 Employers' Guide to Payroll Deductions
T4002 Business and Professional Income Tax Guide
T4003 Farming Income Tax Guide
T4004 Fishing Income Tax Guide
T4011 Guide for Preparing T1 Returns for Deceased Persons
T4015 T5 Guide, Return of Investment Income
T4036 Rental Income Tax Guide
T4037 Capital Gains Tax Guide
T4040 Pension and RRSP Tax Guide
T4041 Retirement Compensation Arrangement Guide
T4061 Guide for Payers of Non-Resident Tax
T4063 Guide to the Charity Information Return
T4068 Guide to the Partnership Information Return

Valuation Day Prices of Publicly Traded Shares

Interpretation Bulletins

IT-83 Non-Profit Organizations — Taxation of Income from Property
IT-114 Discounts, Premiums and Bonuses on Debt Obligations
IT-120 Principal Residence
IT-132 Capital Property Owned on December 31, 1971 — Non-Arm's Length Transactions
IT-179 Change of Fiscal Period
IT-201 Foreign Tax Credit — Trust and Beneficiaries
IT-207 "Tainted" Spouse Trusts
IT-212 Income of Deceased Persons — Rights or Things
IT-217 Capital Property Owned on December 31, 1971 — Depreciable Property
IT-236 Reserves — Disposition of Capital Property
IT-238 Fees Paid to Investment Counsel
IT-258 Transfer of Property to a Spouse
IT-260 Transfer of Property to a Minor
IT-268 Inter Vivos Transfer of Farm Property to Child
IT-270 Foreign Tax Credit
IT-281 Elections on Single Payments from a Deferred Profit Sharing Plan
IT-285 Capital Cost Allowance — General Comments
IT-286 Trusts — Amount Payable
IT-301 Death Benefits — Qualifying Payments
IT-305 Establishment of Testamentary Spouse Trust
IT-331 Investment Tax Credit
IT-337 Retiring Allowances
IT-342 Trusts — Income Payable to Beneficiaries
IT-349 Intergenerational Transfers of Farm Property on Death
IT-366 Principal Residence — Transfers to Spouse, Spouse Trust or Certain Other Individuals
IT-369 Attribution of Trust Income to Settlor
IT-370 Trusts — Capital Property Owned on December 31, 1971
IT-372 Trusts — Flow Through of Taxable Dividends and Interest to a Beneficiary
IT-374 Meaning of "Settlor"
IT-377 Director's, Executor's and Juror's Fees
IT-381 Trusts — Deduction of Amounts Paid or Payable to Beneficiaries and Flow-Through of Taxable Capital Gains to Beneficiaries
IT-385 Disposition of an Income Interest in a Trust
IT-394 Preferred Beneficiary Election
IT-396 Interest Income
IT-406 Tax Payable by an Inter Vivos Trust
IT-407 Disposition after 1987 of Canadian Cultural Property
IT-419 Meaning of Arm's Length
IT-446 Legacies
IT-447 Residence of a Trust or Estate
IT-456 Capital Property — Some Adjustments to Cost Base
IT-465 Non-Resident Beneficiaries of Trusts
IT-484 Business Investment Losses
IT-496 Non-Profit Organizations
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-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
74-3 Supplementary Schedules for Calculating Capital Gains and Losses
74-21 Payments out of Pension and Deferred Profit Sharing Plans — ITAR 40
75-2 Contributions to a Registered Political Party
76-12 Applicable Rate of Part XIII Tax on Amounts Paid or Credited to Persons in Treaty Countries
77-1 Profit Sharing Plans
77-16 Non-resident Income Tax
78-4 Investment Tax Credit Rates
78-5 Communal Organizations
78-10 Books and Records Retention/Destruction
78-14 Guidelines for Trust Companies and Other Persons Responsible for Filing T3R-IND and Other Returns
82-2 Social Insurance Legislation as it Relates to the Preparation of Information Slips
82-6 Requesting Clearance Certificates for Estates and Trusts
85-5 Custom and Facsimile Tax Forms
89-4 Tax Shelter Reporting
92-1 Guidelines for Accepting Late, Amended or Revoked Elections
92-2 Guidelines for the Cancellation and Waiver of Interest and Penalties
92-3 Guidelines for Refunds Beyond the Normal Three Year Period

92-4	List of Forms and Publications Available for Use by the Public
92-5	T1, T2 & T3 Custom returns

Forms

T3A	Request for Loss Carry-back by a Trust
T79	Alberta Royalty Tax Rebate Calculation and Application (Individuals)
T80	Alberta Royalty Tax Credit Calculation and Application (Individuals)
T81	British Columbia Royalty and Deemed Income Rebate Calculation and Application
T86	Manitoba Manufacturing Investment Tax Credit
T184	Calculation of Capital Gains Refund for a Mutual Fund Trust
T691A	Minimum Tax Supplement — Multiple Jurisdictions
T1015	Election by a Trust to Defer the Deemed Realization Day
T1055	Summary of Deemed Realizations
T2036	Calculation of Provincial Foreign Tax Credit
T2038(IND)	Investment Tax Credit (Individuals)
T2076	Valuation Day Value Election for Capital Properties Owned on December 31, 1971
T2084	Capital Dispositions Supplementary Schedule Re: Bonds and Other Obligations
T2124	Statement of Income and Expenses from a Business
T2203	Calculation of Tax in Respect of Multiple Jurisdictions
T2209	Calculation of Federal Foreign Tax Credit
T2210	Verification of Policy Loan Interest by Insurer
T2211	Calculation of Deemed Proceeds and Capital Gain Deferral on Disposition of Shares of a Small Business Corporation
T2223	Election Under Subsection 159(6.1) of the *Income Tax Act* to Defer Payment of Income Tax
PD7AR-NR	Non-Resident Tax Remittance Form
NR4B Supplementary	Statement of Amounts Paid or Credited to Non-Residents of Canada
NR4B Summary	Return of Amounts Paid or Credited to Non-Residents of Canada
T3 Supplementary	Statement of Trust Income
T3 Summary	Summary of Trust Income Paid
T4 Supplementary	Statement of Remuneration Paid
T4 Summary	Summary of Remuneration Paid
T4A Supplementary	Statement of Pension, Retirement, Annuity and Other Income
T4A Summary	Summary of Remuneration Paid

Index

Topic	Page
Account number	11
Actual amount of dividends	12, 29
Additional federal foreign tax credit	44
Additional investment tax credit	44
Adjusted cost base	19
Alberta royalty tax rebate	48
Allocations or designations	31
Allocation or designation of losses	31
Allowable business investment losses	14
Annual gains limit	26
Appendix A — Cost of additions of depreciable assets	55
Appendix B — Employment and employment-related income	56
Assets acquired before 1972	19
Bad debt from eligible capital property	22
Basic exemption — Minimum tax	46
Benefits from trust, taxable	15
Bonds	20
Books and records	7, 22
British Columbia royalty and deemed income rebate	49
Business income	12
Business investment losses (allowable)	14
Canadian cultural property	22
Capital dispositions	19
Capital gains	18
Capital gains deduction	20, 21, 28, 36, 51
Capital gains deduction for a spousal trust	17, 24
Capital gains designated by a trust to beneficiaries	34
Capital gains, eligible taxable	36
Capital gains, net taxable	34
Capital gains refund	19
Capital properties, other	20
Carrying charges	14, 30
Certification — Page 4	18
Charitable donations	15, 41
Clearance certificates	7
Commercial trust (see personal trust)	10
Communal organization	8
Completing the NR4B return (summary and supplementary)	40
Completing the T3 return	11
Completing the T3 Summary and T3 Supplementary forms	47
Contacting us	61
Credits — Lines 85 to 89	17
Cumulative gains limit	27
Cumulative net investment loss	28
Death benefits	13, 37
Deductions — Lines 21 to 41	14
Deductions from total income, other	15
Deductions, related to sources of income	15
Deductions to arrive at taxable income, other	17
Deemed realization (disposition) — 21-year rule	19, 22
Deemed taxable capital gains	21
Designated beneficiary	38
Designated contributor	25
Designated income to be taxed in trust 104(13.1), 104(13.2)	31
Designation of non-taxable dividends	30
Designations	31
Distributing the NR4B return	41
Distributing the T3 Supplementary form	52
Distribution of property to beneficiaries	19
Dividend income	12, 29
Dividend tax credit, federal	41
Dividends, non-taxable received by a trust	30
Donations, charitable	15, 41
Election — Capital losses	18
Election - 164(6) and 164(6.1)	18
Election — Preferred beneficiary	34
Election to defer the deemed realization day (form T1015)	24
Election to defer payment of tax (form T2223)	24
Elective income — Resident beneficiaries	34
Eligible beneficiary	39

Topics	Page
Eligible capital property	22
Eligible pension income	29, 37
Eligible taxable capital gains	26, 28, 37
Employee benefit plan	9
Employee trust	10
Employment related income	13
Exempt beneficiary	24
Exemption from 21-year rule	23
Farming and fishing losses	16
Farming income	12, 29
Federal income tax	41
Federal dividend tax credit	41
Federal foreign tax credit	43, 44
Federal political contribution tax credit	43
Filing requirements	4
Final return	6
Fishing income	12, 36
Foreign investment income	12, 30
Foreign non-business income tax paid	37, 43
Foreign tax credit, federal	43, 44
Form T3A, *Request for Loss Carry-back by a Trust*	16
Form T1015, *Election by a Trust to Defer the Deemed Realization Day*	24
Form T1055, *Summary of Deemed Realizations*	22
General information	4
Gross-up amount of dividends	15, 30
Guides	57
Identification (page 1)	11
Improving the guide	7
Income — Lines 01 to 20	11
Income paid or payable to non-resident beneficiaries	33
Income paid or payable to resident beneficiaries	33
Individual surtax payable	44
Information circulars	57
Insurance segregated funds	4, 9, 31
Inter vivos trust (definition)	8
Inter vivos trust — Tax rates	41
Inter vivos trust — Taxation year	6
Interest	6
Interspousal transfers and loans of property	10
Investment income, foreign	12, 30
Investment income, other	12, 30
Investment loss, cumulative net	28
Interpretation bulletins	57
Investment club	10
Investment tax credit	44
Investment tax credit (ITC) designated	38
Late filing penalties	6
Listed personal property	16, 21
Losses, allocation or designation	31
Losses, farming and fishing	16
Lump-sum payments — ITAR 40	12, 41
Magnetic media filing	49
Manitoba manufacturing investment tax credit	48
Median rule	19
Minimum tax, basic exemption	46
Minimum tax — Calculation, Schedule 12	45
Minimum tax — Carry-over from previous year	42
Minor, trust for a	8
Mutual fund trust	8
Net capital losses of other years	16, 46
Net taxable capital gains	34
NISA Fund No. 2	13, 33
Non-capital losses of other years	16, 46
Non-profit organization	4, 9, 17
Non-qualifying real property	27
Non-resident beneficiaries	33, 40
Non-resident — Income paid or payable	33
Non-resident trusts	5, 43, 47
Non-resident withholding tax — Part XIII	40

Topics — **Page**

Non-taxable dividends received by a trust 30
Non-taxable portion of capital gains retained by the trust ... 45
NR4B Supplementary 40, 41
NR4B Summary 40, 41

Ontario tax reduction 48
Other capital properties 20
Other credits 44
Other deductions from total income 14
Other deductions to arrive at taxable income 17
Other income 13, 35
Other investment income 12, 30
Outlays and expenses 19

Part XII.2 tax (Schedule 10) 38
Part XII.2 tax credit 17, 38
Part XIII tax, adjustment 39
Part XIII tax, non-resident withholding 40
Payment on account of tax or tax paid by instalments 17
Penalties 6, 49
Pension income (benefits) 12, 29, 35
Pension income, eligible 29, 37
Personal trust 10
Personal-use property 21
Political contribution tax credit (federal) 43
Political contribution tax credit (provincial and territorial) 47, 48
Preferred beneficiary election 34
Preferred beneficiary 34
Principal residence 21
Privacy Act 7
Problem Resolution Program 7
Provincial or territorial tax payable 47
Publications, related (forms, information slips, returns) 57

Qualified farm property 20, 29
Qualified small business corporation shares 20, 29
Quebec abatement, refundable 45

Real estate or depreciable property 20
Real estate rental income 12
Real property (non-qualifying) 27
Reassessments 7
Records and books 7, 22
Refund code 18
Refundable Part XII.2 tax credit 39
Refundable Quebec abatement 45
Registered retirement savings plans (RRSP) 13
Related publications 57
Rental income, real estate 12
Request for a loss carry-back by a trust 16
Reserves on dispositions of capital property 21, 26
Residence of trust 5
Resource allowance 15
Retirement compensation arrangement (RCA) 4, 9

Saskatchewan flat tax 48
Saskatchewan tax incentives 48
Schedules 18
Schedule 1 — Summary of Dispositions of Capital Property 18
Schedule 2 — Calculation of Reserves on Dispositions of Capital Property 26
Schedule 3 — Calculation of a Trust's Eligible Taxable Capital Gains 26
Schedule 4 — Calculation of Cumulative Net Investment Loss 28
Schedule 5 — Beneficiary Spouse Information and Calculation of Spousal Trust's Capital Gains Deduction 28
Schedule 6 — Calculation of Total Taxable Capital Gains Attributable to Qualified Farm Property or Qualified Small Business Corporation Shares 29
Schedule 7 — Statement of Pension Income Allocations/Designation 29
Schedule 8 — Statement of Investment Income and Calculation of Gross-up Amount of Dividends Retained by the Trust 29
Schedule 9 — Summary of Income Allocations/Designations to Beneficiaries 31
Schedule 10 — Calculation of Part XII.2 Tax and Part XIII Non-resident Withholding Tax 38
Schedule 11 — Calculation of Federal Income Tax 41
Schedule 12 — Calculation of Minimum Tax 45
Schedules 13 and 14 — Calculation of Provincial and Territorial Income Taxes 47
Segregated fund trust 9
Social insurance number 49, 51
Specified income 38
Spousal trust 8
Spousal trust — Capital gains deduction 17, 24
Summary of deemed realizations (form T1055) 22
Summary of tax and credits, lines 81 to 91 17
Surtax — individual 44
Surtax on income not subject to provincial or territorial tax 43

T3 Summary (completing and filing) 53
T3 Supplementary (completing and distributing) 49
Tax adjustments — ITAR 40 .... 12, 41
Taxable benefits 15
Taxable capital gains 11, 22
Taxable capital gains deduction — Spouse trust 17, 24
Taxable capital gains eligible for deduction 36
Taxable income of the trust, calculation 17
Taxation year 6
Territorial tax payable, provincial or 47
Testamentary trust (definition) 6
Testamentary trust — Taxation year 6
Testamentary trust — 164(6) election 18
Testamentary trust — 164(6.1) election 19
Total income allocations/designations to beneficiaries 33
Total taxable capital gains 22
Transfers and loans of property, to a trust 10
Transfer of trust property 10
Trust for a minor 8
Trustee fees 14
Types of trusts 7

Unit trust 8
Upkeep, maintenance, taxes — Beneficiary 15

Valuation day value election 20
Value of other benefits to beneficiary 15

What to file 5
When to file 5
Where to file 5
Who should file 4

Contacting Us

Once a trust return is filed, the information on it becomes confidential. For this reason, we follow procedures before giving out information about the trust. Information can be given only to the trustee (or other legal representative who filed the return, such as an executor, administrator, assignee, or receiver) or to an authorized representative. The authorized representative could be an accountant, lawyer, or tax preparer, acting for the trustee. Although beneficiaries are entitled to information related to their personal tax situation, they are not entitled to information from us about the tax affairs of the trust.

Getting information in person

If you visit us, we will ask for:

- personal identification, which may be one piece of signed identification with your picture or two pieces of signed identification; and
- trust identification, which may be a copy of the will, trust agreement or letters of administration, or confirmation that a copy of one of these documents has been filed with us. We will also accept other identification, such as a copy of the *Notice of Assessment* or other information about the contents of the trust return.
- a business card or some other form of corporate identification, if you are an employee of a corporate trustee.

If your representative visits us, we will ask for the same identification. We will also ask for evidence that you have authorized this person.

Some of the trust's tax information is readily available and can be given to you as soon as we confirm that you are entitled to it. However, a pre-arranged appointment will ensure that the information you need will be available when you visit.

Getting information by telephone

If you call us, we will ask:

- for your name, address, and date of appointment as trustee.
- whether a copy of the will, trust agreement, or letters of administration has been filed with us. If not filed, we will ask for a copy or for some other form of proof that will allow us to give you the information you need. If you are enquiring about the assessment of the trust return we may also ask for information from the return.
- for the date that your company was appointed as trustee, if you are an employee of a corporate trustee.

If your representative calls us, we will ask for evidence that you have authorized this person, in addition to the trust-related identification.

If the information you require is not readily available, we may tell you that we will call back as soon as it is available. When we call back, we will ask for the date that the trust was established (for inter vivos trusts, this is the date the trust was created, and for testamentary trusts, it is the date of death of the individual upon whose death the trust was created.)

Giving authorization or cancelling an authorization already given

You can authorize a representative or cancel an authorization already given by writing to us, or by sending in a completed Form T1013, *Consent Form*. You can get this form at your district office.

The authorization, or cancellation of an authorization already given, should include:

- the name and address of the trust, your signature and title as the authorized signing person (e.g., trustee), your telephone number and the date;
- your representative's name (only the business name of a firm or partnership need appear, unless authorization is to be restricted to a certain member) and telephone number; and
- the taxation year or years to which the authorization, or cancellation of the authorization, applies. If the trust has a fiscal period, use the day, month, and year to specify the beginning and ending of the authorized period (for example, from 01-10-1990 to 30-09-1992).

  Although, the "from" and "to" period may cover several fiscal periods, the "to" date must agree with the trust's fiscal period end.

A separate written authorization or consent form has to be completed for each representative appointed or cancelled, for a taxation year or years.

Sending information by fax

Please use facsimile service for correspondence only. Because this service relies on the telephone network, we are not responsible for misdirected, incomplete, or unclear documents.