Information for Trusts About Income Tax

Revenue Canada Revenu Canada

1994

T3 Guide and Trust Return

T4013(E) Rev. 94

Cette publication existe aussi en français

Canada

What's New for 1994?

Proposed changes

This guide and return include tax changes announced in February 1994 that were not law at the time of printing. However, we are getting ready to apply the proposed changes. These changes are highlighted in this guide under the heading "Pending Legislation — From tax changes announced on February 22, 1994."

Changes

Guide

We added Chapter 6, "Election by a Personal Trust to Report a Capital Gain" which contains information related to tax changes announced on February 22, 1994. Form 94-115, *Election to Report a Capital Gain on Property Owned by a Personal Trust at the End of February 22, 1994,* is included with the T3 return and schedules in this package.

Schedules

Schedule 1

We added lines 111 and 114. Use line 111 to report elected capital gains under pending legislation announced February 22, 1994. Use line 114 to claim the reduction to capital gains on flow-through entities after February 22, 1994.

Schedules 2, 3, and 6

We added line 209 and changed line 303, and column 3 of Schedule 6 to reflect the proposed elimination of the $100,000 capital gains exemption on capital properties and eligible capital property disposed of after February 22, 1994.

Schedule 9

We deleted line 927, "Farming/fishing income." The block-averaging provisions for income from farming or fishing no longer apply.

We removed box 31 "Eligible pension income" from Part A. This amount remains included as income in box 26 and is designated as eligible pension in the "Summary of other amounts designated to beneficiaries" under Part B.

We removed the lines for pension income eligible for paragraph 60(l) transfer and retiring allowance eligible for paragraph 60(j.1) transfer from the footnotes area on page 1, because these amounts are included in box 36.

Schedules 13 and 14

Basic income tax rates and surtax rates changed in 1994 in some provinces and territories. The Rev. 94 schedules 13 and 14 reflect the new rates.

T3 Supplementary

We deleted box 27, "Farming/fishing income." The block-averaging provisions in respect of income from farming or fishing no longer apply.

Box 36 is now called "Miscellaneous." It includes pension income eligible for paragraph 60(l) transfer, retiring allowances eligible for paragraph 60(j.1) transfer, and charitable donations for communal organizations.

T3 Summary

The changes we made are consistent with the changes we made to the T3 Supplementary.

Other changes

Certain trusts will have until March 31, 1995 to file their 1994 income tax and information returns so that they will know how the proposed legislation will change the capital gains exemption. See "When to file?" on page 5 for more information.

This guide uses plain language to explain the more common trust income tax situations. If you need help after reading this guide, please contact your Revenue Canada income tax office. You can find the address and telephone numbers at the back of this guide.

Table of Contents

	Page
Chapter 1 — General Information	4
Filing requirements	4
Residence of trust	6
Taxation year	6
Penalties and interest	7
Reassessments	8
Elections	8
Books and records	8
Clearance certificate	8
Types of trusts	8
Transfers and loans of property	11
Chapter 2 — Definitions	12
Chapter 3 — Completing the T3 Return	15
Step 1 — Identification	15
Step 2 — Calculating total income — Lines 01 to 20	15
Step 3 — Calculating net income — Lines 21 to 50	18
Calculating taxable benefits — Lines 43 to 45	21
Page 3 — Schedules and other information required	21
Step 4 — Calculating taxable income — Lines 50 to 56	21
Step 5 — Summary of tax and credits — Lines 81 to 100	23
Certification area	24
Chapter 4 — Trust Schedules	25
Schedule 1 — Summary of Dispositions of Capital Property — Lines 101 to 122	25
Form T3A, *Request for Loss Carry-Back by a Trust*	30
Form T1055, *Summary of Deemed Realizations*	31
Form T2223, *Election by a Trust to Defer Payment of Tax*	33
Form T1015, *Election by a Trust to Defer the Deemed Realization Day*	33
Schedule 2 — Calculation of Reserves on Dispositions of Capital Property — Lines 209 to 216	35
Schedule 3 — Calculation of a Trust's Eligible Taxable Capital Gains — Lines 301 to 334	35
Schedule 4 — Calculation of Cumulative Net Investment Loss — Lines 401 to 433	37
Schedule 5 — Beneficiary Spouse Information and Calculation of Spousal Trust's Capital Gains Deduction — Lines 501 to 525	38
Schedule 6 — Calculation of Total Taxable Capital Gains Attributable to Qualified Farm Property or Qualified Small Business Corporation Shares — Lines 610 to 615	38
Schedule 7 — Statement of Pension Income Allocations or Designations	39
Schedule 8 — Statement of Investment Income and Calculation of Gross-up Amount of Dividends Retained by Trust — Lines 805 to 824	39
Schedule 9 — Summary of Income Allocations or Designations to Beneficiaries — Lines 901 to 944	40
Schedule 10 — Calculation of Part XII.2 Tax and Part XIII Non-Resident Withholding Tax — Lines 1001 to 1031	48
Completing the NR4 return	51
Distributing the NR4 return	51
Schedule 11 — Calculation of Federal Income Tax — Lines 1101 to 1130	51
Schedule 12 — Calculation of Minimum Tax — Lines 1201 to 1269	55
Schedules 13 and 14 —Provincial and Territorial Tax Payable	57
Chapter 5 — T3 Supplementary and T3 Summary	60
Completing the T3 Supplementary slip	61
Distributing the T3 Supplementary slip	64
Completing the T3 Summary	64
Filing the T3 Summary	65
Chapter 6 — Election by a Personal Trust to report a Capital Gain	67
Completing Form 94-115, *Election to Report a Capital Gain on Property Owned by a Personal Trust at the End of February 22, 1994*	69
Appendix A — Cost of Additions of Depreciable Assets	71
Appendix B — Employment and Employment-Related Income	72
Index	74
Contacting Us	77

Your opinion counts

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:
Client Assistance Directorate
400 Cumberland Street
Ottawa ON K1A 0L8

Chapter 1 — General Information

This guide contains information to help you complete the 1994 T3, *Trust Income Tax and Information Return* (T3 return.) The information is only intended as a guide. It 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 this guide, we refer to other publications and guides that give more detailed information. These publications are available at your income tax office. When you request a publication, always ask for the most recent version. If you need more help after reading this guide, please contact your income tax office.

Filing requirements

Who should file?

As the trustee of a trust, you have to file a T3 return if income from the trust property is subject to tax **and** the trust:

- has tax payable;
- has a taxable capital gain or has disposed of a capital property;
- has provided a benefit of more than $100 to a beneficiary under subsection 105(2) for upkeep, maintenance, and taxes for property maintained for the beneficiary's use (for more information, see "Line 43" on page 21); **or**
- receives from the trust property any income, gain, or profit that is designated, paid, or payable to one or more beneficiaries, **and** the trust has:
  - total income of more than $500 at line 20 on page 2 of the T3 return; **or**
  - income of more than $100 designated, paid, or payable to any single beneficiary; **or**
  - allocated any portion of the income to a non-resident beneficiary.

You may not have to file a T3 return if the estate is distributed immediately after the person dies, or if the estate did not earn income before the proceeds were distributed. In this case, you should give each beneficiary a statement showing his or her share of the estate.

Additional guidelines

- The trustee for a **related segregated fund trust** has to file a T3 return for its registered and non-registered funds.
- The deemed trustee for a **communal organization** has to file a T3 return. See Information Circular 78-5, *Communal Organizations*.
- The custodian for an **employee benefit plan** and the trustee for an **employee trust** have to file a T3 return if the total receipts of the plan or trust in the year are more than $500. The total receipts can be from contributions, gross income, or a combination of the two. The custodian or trustee should report the beneficiaries' income on Form T4A Supplementary, *Statement of Pension, Retirement, Annuity and Other Income*, rather than on Form T3 Supplementary, *Statement of Trust Income Allocations/Designations*. See Interpretation Bulletin IT-502, *Employee Benefit Plans and Employee Trusts*.
- The officers of a club, or the corporation if the club is incorporated, deemed to be the trustees for a **non-profit organization** whose main purpose is to provide dining, recreational, or sporting facilities for its members, may have to file a T3 return. This is the case if the gross or total income from property including taxable capital gains is more than $500. See "Non-profit organization" on page 11.

The trustee for an agricultural organization, board of trade, chamber of commerce, or non-profit organization that is exempt from tax under paragraph 149(1)(e) or (l) has to file a T1044, *Non-Profit Organization (NPO) Information Return*, for a fiscal period ending after 1992, if either of the following apply:

- The organization received, or was entitled to receive, more than $10,000 in dividends, interest, rents, or royalties, or any combination thereof, in the fiscal period.
- The total book value of its assets was more than $200,000 at the end of the preceding fiscal period.

  If you have to file Form T1044, *Non Profit Organization (NPO) Information Return* for this fiscal period, you will also have to file one for all future years in which the organization exists, regardless of the dollar value of the organization's revenues or the book value of its assets. For more information about non-profit organizations, get the income tax guide called *Your Guide to the Non-Profit Organization (NPO) Information Return* from your income tax office.

- The trustee for each of the trusts listed below has to file a different type of T3 return for each trust or group of trusts:
  - registered retirement savings plan (T3R-G, T3R-IND)
  - amended registered retirement savings plan (T3R-G, T3R-IND)
  - registered retirement income fund (T3RIF-G, T3RIF-IND)
  - deferred profit-sharing plan (T3D)
  - revoked deferred profit-sharing plan (T3D)
  - registered pension fund or plan (T3P)
  - supplementary unemployment benefit plan (T3S)
  - registered investment (T3RI)
  - qualified investment (T3F)

  See Information Circular 78-14, *Guidelines for Trust Companies and Other Persons Responsible for Filing T3R-IND, T3R-G, etc.*, for more information.
- The trustee of a trust or group of trusts governed at any time in the year by a registered education savings plan has to file a T3E-G, *Registered Education Savings Plan (Group) Information Return*. For information, see

Information Circular 93-3, *Registered Education Savings Plans*.

- A registered Canadian amateur athletic association acting as a trustee for an **amateur athlete trust** has to file an annual return for the amateur athlete trust. The return is T1061, *Canadian Amateur Athlete Trust Group Information Return*. If a payment is made to a non-resident athlete, complete T3ATH-IND, *Amateur Athlete Trust Information Return and Income Tax Return*. The trustee has to prepare a T3 Supplementary, *Statement of Trust Income Allocations/Designations*, for a resident athlete. For a non-resident athlete, the trustee has to prepare an NR4 Supplementary, *Statement of Amounts Paid or Credited to Non-Residents of Canada*.
- The custodian of a **retirement compensation arrangement (RCA)** trust has to file a T3, *Trust Income Tax and Information Return*, for the employee benefit portion, if any, and a T3-RCA, *Part XI.3 Tax Return*, for the RCA. The custodian of an RCA trust has to prepare Form T4A-RCA to report any distributions made out of an RCA during the year to retired employees. For more information, see the *Retirement Compensation Arrangement Guide*, which is available at your income tax office.
- The trustee for a **registered charity** has to file Form T3010, *Registered Charity Information Return and Public Information Return*. For more information, see *Your Guide to the Charity Information Return*.
- A trustee or receiver appointed under the *Bankruptcy Act* who is acting for an individual has to file a T1 return rather than a T3 return.
- An agent, nominee, or custodian who is acting for a resident of Canada, but not acting in a fiduciary capacity, has to file a T5 Summary, *Return of Investment Income*, for payments of investment income. For more information, see the *T5 Guide — Return of Investment Income*.

Pending legislation — from changes announced on February 22, 1994

The February 22, 1994, budget proposed deductions for contributions made to qualifying trusts for the purpose of carrying out reclamation work resulting from mining operations. Income earned on a qualifying trust's funds and retained by the trust, is annually included in the income of beneficiaries under these trusts. The qualifying trust will also be subject to a special tax that is refundable in the hands of the beneficiaries.

A trustee of a qualifying Mining Reclamation Trust has to file Form T3M, *Mining Reclamation Trust Income Tax Return*, for taxation years ending after February 22, 1994.

What to file?

- *Trust Income Tax and Information Return* (T3), related schedules, and statements (one copy)
- Special T3 returns, information returns, and other returns as required (see the appropriate section under "Additional guidelines" on page 4 for the guidelines that apply to your trust)
- T3 Summary and T3 Supplementary (one copy of each form)
- NR4 Summary and NR4 Supplementary for non-resident beneficiaries (for more information, see "Completing the NR4 return" on page 51)
- T4 Summary and T4 Supplementary for executor and trustee fees (see "Lines 22 to 24, Trustee fees" on page 18)
- T4A-NR Summary and T4A-NR Supplementary for executor and trustee fees paid to a non-resident of Canada (see "Lines 22 to 24, Trustee fees" on page 18)
- T4A Summary and T4A Supplementary for beneficiaries of employee benefit plans and employee trusts

  For more information on completing T4, T4A, and T4A-NR slips, see the *Employers' Guide to Payroll Deductions — Basic Information*. Note that you have to file these forms no later than the **last day of February**.

Two copies of the T3, *Trust Income Tax and Information Return*, and each schedule are in the centre of this guide. You can get additional copies of the return, schedules, summary forms, and supplementary slips (NR4, T3, T4, T4A, and T4A-NR) from your income tax office.

We update the forms each year, so be sure to use the most recent version available. The year appears at the top-right corner of the form. For example, "T3 1994" identifies the 1994 version of T3, *Trust Income Tax and Information Return*, and "Rev. 94" identifies the 1994 trust schedules.

If you have to file a return for the 1995 taxation year, and the 1995 return is not available, you can use the 1994 version.

If you are filing a return for an earlier year (e.g. 1992), please complete the return and schedules designed for that year (T3 1992 and Rev. 92), because different tax rates and rules apply.

If you want to use customized forms, you have to get our approval. For details, see Information Circular 92-5, *T1, T2, and T3 Custom Returns*, and Information Circular 93-4, *Custom and Facsimile Tax Forms*.

When to file?

You have to file the T3 return no later than **90 days** after the end of the trust's taxation year.

You should also pay any balance due no later than 90 days after the trust's year end. See "Interest" on page 7 for information about interest charges on unpaid amounts.

If information slips for income you are reporting on the T3 return are not available when the return is due, **estimate** the income and attach a note to tell us that you will send the slips when you receive them. When you send the slips to us later, be sure to include the trust's account number with your letter.

The required filing date may fall on a Saturday, Sunday, or statutory holiday. In this case, we will accept the return as filed on time if it is delivered on the first working day, or

if the post mark on the envelope is the first working day, after the required filing date.

If you mail the T3 return first-class, or if you use an equivalent delivery service, we consider the date of the postmark on the envelope as the day you filed the return.

For more information on the taxation year of a trust, see "Taxation year" on this page. See "Penalties and interest" on page 7 for information on late-filing penalties and interest on unpaid taxes.

Certain trusts will have until March 31, 1995, to file their 1994 income tax and information returns so that they will know how the proposed legislation will change the capital gains exemption.

The filing deadline extension applies to testamentary trusts which:

- owned property on February 22, 1994, that would have resulted in a capital gain if it had been disposed of;
- had a 1994 taxation year or a fiscal period that ended after February 21, 1994; and
- had a beneficiary on February 22, 1994, who is an individual (other than a trust), who has not used up all of their lifetime capital gains deduction, and who is resident of Canada.

The deadline extension also applies to the filing of any documents or information returns that are usually filed at the same time as the return of a testamentary trust. Such documents and returns include the T3 Supplementary and Summary forms, preferred beneficiary elections, and NR4 Supplementary and Summary forms.

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 to. Trustees served by the district taxation office on the left, below, should send the return to the taxation centre on the right.

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

If you have any questions about trusts resident in Canada, call or visit your income tax office. You will find the telephone numbers and addresses at the back of this guide.

Non-resident trusts

If you are a trustee, executor, administrator, or other legal representative who manages the trust or controls trust assets, and you live outside Canada, you should mail the trust return to:

International Taxation Office
2540 Lancaster Road
Ottawa ON K1A 1A8

If you have any questions about non-resident trusts, call the International Taxation Office.

When calling from:
The Ottawa area 952-8753
Other Canadian and U.S. locations 1-800-267-5177
Outside Canada and U.S. 1-613-952-8753*
* We accept collect calls.

Residence of trust

A trust may be a resident of Canada, or a non-resident of Canada. 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, we usually consider a trust to reside where the trustee, executor, administrator, or other legal representative who manages the trust or controls the trust's assets lives. For more information, get 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 begins when a person dies. For a more compete definition of a testamentary trust, see "Testamentary trust" on page 8.

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 after the person dies, and ends at any time selected by the trustee within the

next 12 months. The tax rates used, and the tax year of the T3 slips issued to the beneficiaries, are based on the year-end of the trust.

Once you establish the trust's year-end, you cannot change it without our approval. For more information, see Interpretation Bulletin IT-179, *Change of Fiscal Period*.

You have to file a T3 return for a testamentary trust no later than 90 days after the end of the trust's established taxation year. You should also make the payment of any balance due no later than 90 days after the trust's year-end. See "Interest" on this page for information about interest charges on unpaid amounts.

There are several reasons why you may prefer to choose a calendar year-end (December 31) for a testamentary trust:

- Availability of forms — The current-year trust returns and related schedules are not usually available until the end of the calendar year. That is, the 1995 T3 returns and schedules will not be available until the end of 1995. A 1995 return due before the forms are available would have to be filed on a 1994 form. Please note that the 1994 return may not contain current year changes or information.
- Minimum delay in assessing — Amendments to the *Income Tax Act* generally require changing the return processing procedures. If the return has a taxation year ending early in a calendar year, we may have to delay assessing the return until Parliament passes the legislation and the revised procedures are in place.
- Easier form completion — 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 are issued on a calendar-year basis.(e.g. T5 slip for bank interest)

You should note that there also may be advantages if you choose a non-calendar year-end as the date for the trust's year-end:

- Considerations — Factors such as the marginal tax rates of beneficiaries, and the timing of income receipts may play an important role when you choose the trust's fiscal period.

Inter vivos trust

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

The taxation year of an inter vivos trust always has to coincide with the calendar year.

You have to file a T3 return for an inter vivos trust no later than 90 days after the end of the trust's taxation year. You should also make the payment of any balance due no later than 90 days after the trust's year end. See "Interest" on this page for information about interest charges on unpaid amounts.

Final return

If you are filing the final return for the trust, you have to enter the wind-up date on page 1 of the T3 return. If a **testamentary trust** is wound up (discontinued) during a taxation year, the taxation year of the trust will end on the date of the final distribution of the assets. You have to file this final return (covering the usually shortened taxation year) and pay any taxes owing no later than 90 days after the end of the trust's winding-up date. If an **inter vivos trust** is wound up (discontinued) during a taxation year, you may want to file a final return before the end of the trust's usual taxation year. You should get a clearance certificate, however, before you distribute the trust property. For more information, see "Clearance certificate" on page 8.

Penalties and interest

Late-filing penalties 162(1), (2), (7), 238(1), Regulation 209

- There is a penalty for not filing an **income tax return** by the required date. The penalty is the total of 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.

  A greater penalty may apply if we issue a demand to file the return under subsection 150(2). The penalty will apply if we assessed a late-filing penalty for any of the three preceding taxation years. This penalty is the total of 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.
- There is a penalty for not filing an **information return** by the required date. The penalty is $25 a day, with a minimum penalty of $100, to a maximum of $2,500. It applies when income is allocated or designated to recipients and the return is filed late, or when the slips for the recipients are distributed late. This penalty will also apply if you fail to provide two copies of each information return to each person to whom the information is related.

  Persons who do not file an income tax or information return as required under the *Income Tax Act* or *Income Tax Regulations* may be guilty of an offence. On summary conviction, they are liable to a fine ranging from a minimum of $1,000 to a maximum of $25,000, or to a fine and imprisonment for a term of up to 12 months. This penalty is in addition to any other penalty.

Interest 161, 164

We charge interest at a prescribed rate on unpaid amounts. We compound interest daily from the date the return was due until the date of payment.

We pay compound daily interest on a tax refund starting on the latest of:

- 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 of the overpayment.

Note

We will not charge testamentary trusts eligible for the filing extension, interest for the period before April 1, 1995, on unpaid amounts for the 1994 taxation year. See "When to file?" on page 5 for more information about the filing extension.

Waiver of penalty and interest 220(3.1)

We may cancel, reduce, or waive the late-filing penalty and any interest if you file late because of circumstances beyond your control. If this happens, include a letter with the return giving reasons. For more information, get Information Circular 92-2, *Guidelines for the Cancellation and Waiver of Interest and Penalties*.

Reassessments

152(3.1), 152(4), 152(4.1), 152(4.2), 244(14), 244(15)

We usually base our initial assessment on the income you report. Later, we may select your return for a more in-depth review or audit.

We can reassess your return, make additional assessments, or assess tax, interest, or penalties within the following lengths of time:

- three years (four years for mutual fund trusts) from the date we mailed your original *Notice of Assessment* or a notice that no tax was payable for the taxation year. We consider the date appearing on the notice to be the date that we mailed it; or,
- six years (seven years for mutual fund trusts) from the date we mailed your original *Notice of Assessment* to allow or change a carry-back of certain deductions such as a loss or an unused investment tax credit.

In certain cases, we can reassess a **testamentary trust** as far back as 1985 to give you a refund or reduce the tax owed. For complete details, see Information Circular, 92-3, *Guidelines for Refunds Beyond the Normal Three Year Period*.

We can also reassess a T3 return at any time if:

- you file Form T2029, *Waiver in Respect of the Normal Reassessment Period*, with the income tax office before the normal reassessment period expires; or
- you have made a misrepresentation because of neglect, carelessness, wilful default, or fraud in either filing the return or supplying information required by the *Income Tax Act*.

If you want to revoke a waiver you previously filed to extend the reassessment period for a certain taxation year, file Form T652, *Notice of Revocation of Waiver*. The revocation will take effect six months after you file Form T652.

Elections

220(3.2), Regulation 600

In certain cases, you can make a late or amended election, or revoke an original election, for tax years back to 1985. To do this, you have to provide the details to us in writing. For more information, see Information Circular 92-1, *Guidelines for Accepting Late, Amended or Revoked Elections*.

Books and records

230, Regulation 5800

You have to keep books and records to verify the accuracy of the reported gross and net incomes from business or property, for the period or periods outlined in the *Income Tax Act* and *Regulations*. You can request 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") get a clearance certificate before distributing any property under their control. By getting this certificate, you will avoid being personally liable for unpaid taxes, interest, and penalties.

We cannot issue a clearance certificate until:

- you have filed all the required T3 returns and we have assessed them; and
- you have paid or secured all taxes, interest, and penalties.

After you receive the final *Notice of Assessment*, and have paid or secured any balances owing, you should fill out Form TX19, *Request for Clearance Certificate*. Send completed Form TX19 to the appropriate income tax office. Contact your income tax office to get a copy of Form TX19.

Please make sure you send us all the information and documentation (will, trust document, etc.) that we request on Form TX19. This will make it easier for us to process the clearance certificate. You do not have to resubmit documents that you have already filed with us. If you can't remember which documents you have already filed, attach all the necessary documents with your request.

Types of trusts

Testamentary trust 108(1), 248(8), (9.1)

A testamentary trust is a trust or estate that begins when a person dies. The terms of the trust are established by the will, by law in the case where there is no will (intestacy), or by court order (e.g. according to dependant's relief legislation).

A **testamentary trust** does **not** include:

- a trust created by a person other than a deceased individual;
- a trust created after November 12, 1981, if property was contributed to the trust before the end of the taxation year (except property contributed 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 property contributed 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), **is more than** the fair market value of all property the trust owned that was contributed by a 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 that the trust acquired the property.

If you retain control of the assets instead of distributing them to the beneficiaries according to the terms of the will, the testamentary trust **may** become an inter vivos trust. If this is the case, you have to change the fiscal period of the trust 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 not more than, 12 months.

Inter vivos trust 108(1)

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.

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 it without the trust losing its status as a personal trust.

We consider any trust that does not meet the definition of **personal trust** to be a **commercial trust**.

Spousal trust 70(6), 70(6.2), 73(1)(c), 104(4)(a), 108(1)

A spousal trust may be either a testamentary trust **or** an inter vivos trust created for a spouse by an individual. See the definition of the term **spouse** on page 13. Under the spousal trust, the spouse is:

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

Also, at the time the property is transferred to the trust, both the settlor (individual who creates the trust) and the trust have to reside in Canada. In the case of the testamentary spousal trust, the settlor has to be living in Canada immediately before death, while the trust has to reside in Canada immediately after the property vests in the trust. To help you determine the trust's residence, see "Residence of trust" on page 6. The trust may not qualify as a spousal trust if benefits to the spouse change or end on remarriage.

We usually use the term **tainted spousal trust** to refer to a trust created for a spouse where that trust does not meet the qualifications of a spousal trust. More information about spousal trusts is provided in Interpretation Bulletins IT-305, *Establishment of Testamentary Spouse Trust*, and IT-207, *"Tainted" Spouse Trusts.*

Pre-1972 spousal trust 108(1)

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; and
- 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; or
- 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 got the benefit of the trust income or capital.

Post-1971 spousal trust

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)

A minor beneficiary of a testamentary **or** inter vivos trust may have a vested interest in a trust. In this case, if that trust has accumulated income in a taxation year only because the beneficiary is a minor, we will consider the income to have been payable to the minor in the year. The income will then become taxable in the minor's hands for the year. For more information, 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. The trust has to satisfy the other conditions of paragraph 108(2)(a) or (b) of the *Income Tax Act.*

Mutual fund trust 132(6), 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 Regulation 4801. Form T184, *Calculation of Capital Gains Refund for a Mutual Fund Trust*, is available from your income tax office to help you calculate the capital gains refund for mutual fund trusts.

Communal organization 143

We consider an inter vivos trust to have been existing on December 31, 1976, and continuously after that, 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 directly, or manages or controls the businesses through a business agency (such as a corporation or trust) for the purpose of supporting or sustaining its members or the members of another congregation.

The deemed trustee for a **communal organization** has to file a T3 return. The communal organization has to 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), 6(10), 12(1)(n.1), 18(1)(o), 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 can 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 in income the amount received from the employee benefit plan, minus any contributions made by the employee. We consider amounts received by the employee or heirs to be income from an office or employment. Report these amounts on a T4A slip, not a T3 slip.

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 has to include in its income the amount of income from the investment of trust property. The trust can deduct expenses related to earning this investment income unless the income is paid to the employees or employer. If you do not pay the income annually to the beneficiaries, distributions that you make in later years will be taxed (again) as employment income in the employee's hands.

  To be recognized as an income beneficiary, the employer must have unrestricted right, title, and use of the income paid to the employer. If a payment is conditional on its repayment to the trust, we do not accept it as a bona fide payment. This income will be taxed in the hands of the trust.

The custodian for the **employee benefit plan** has to file a T3 return if the total of the trust's income from all sources is more than $500 in the taxation year. Attach a statement of amounts received and disbursed during the year. Identify both the revenue (e.g. contributions, investment income) and disbursements of the plan by type. If you paid out only part of the investment income in a taxation year, we need a breakdown by type of income remaining in the trust, such as taxable capital gains, dividends from taxable Canadian corporations, and other. We need these amounts to help us calculate items such as the dividend tax credit and minimum tax, and to apply net capital losses of other years. For reconciliation purposes, you can show the breakdown of the amounts the trust paid at the appropriate lines in the total column on Schedule 9, Part A. The amount from line 923 could be entered on Schedule 8 at line 822 to calculate the dividends kept in the trust.

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

Report payments out of or under an employee's benefit plan on a T4A slip. For more information, see the *Employers' Guide to Payroll Deductions — Basic Information*.

Salary deferral arrangement 6(1)(i), 6(11), 6(12), 6(1)(a), 248(1)

A salary deferral arrangement is a funded or unfunded arrangement where the employee or another person has a right to receive salary or wages in a year after the services have been rendered. The employee has to include the amount of deferred salary or wages in income in the year services are rendered. The deferred amount is deemed to be an employee benefit. The employee also has to include in income any interest or other amount earned by the deferred amount. The interest or other amount is also deemed to be an employee benefit and has to be included in income in the year it 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.

The terms **salary deferral arrangements** (and their exclusions), and **deferred amount** are described in subsection 248(1) of the *Income Tax Act*.

Retirement compensation arrangement 56(1)(x), 60(t), 8(1)(m.2), 248(1)

When an employer makes contributions for an employee's retirement, termination of employment, or any significant 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 as of the earlier of January 1, 1988, or the day after October 8, 1986, on which the existing arrangement changed. Grandfathering provisions apply to plans that existed on October 8, 1986. These provisions allow

employee benefit plan rules to apply, when applicable, to that portion of plan funding in place before the RCA rules became effective.

The custodian of an RCA trust has to prepare a T4A-RCA Summary, *Return of Distributions, Refunds and Payments on Account of the Purchase Price of an Interest in a Retirement Compensation Arrangement,* to report any distributions made out of an RCA during the year to retired employees. The custodian also has to file a T3, *Trust Income Tax 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 information.

Segregated fund trust 122(1), 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, we consider the property and income of a segregated fund to be the property and income of such a trust, and the life insurer is the trustee of the related segregated fund trust.

The trustee has to file a separate T3 return and financial statements for each segregated fund.

When all the beneficiaries of the fund are fully registered plans, you have to complete only the identification and certification areas of the T3 return and enclose financial statements.

When the beneficiaries of the fund are both registered and non-registered plans (partially registered), do not report the amount of investment income of the registered plans on the T3 return. Only the income that applies to the non-registered plans should be reported on the T3 return and allocated to the beneficiaries.

Non-profit organization 122(1), 149(1)(l), 149(5), 149(12)

A non-profit organization (for example, a club, society, or association) is usually organized and operated exclusively for social welfare, civic improvement, pleasure, recreation, or any other purpose except profit. In this case, 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, the main purpose of some non-profit organizations is to provide dining, recreational, or sporting facilities to its members. In this case, we consider an "inter vivos trust" to have been created. The non-profit organization will then have to pay tax on its income from property. It is also taxable on any taxable capital gains from the disposal of any property that is not used to provide those services.

The deemed trustee for the **inter vivos trust** has to file a T3 return when its gross or total income from property (e.g., interest income, rental income, or other investment income) including taxable capital gains is more than $500 for the calendar year. The trust can 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. For more information, see Interpretation Bulletin IT-83, *Non-Profit Organizations — Taxation of Income from Property*.

For fiscal periods ending after 1992, the trustee of a non-profit organization may also have to file Form T1044, *Non-Profit Organization (NPO) Information Return*. For more information, see "Who should file" on page 4.

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 on the trust's initial return of income. This return has to be filed no later than 90 days after the end of the trust's first taxation year. The employer can deduct contributions to the plan only if this election has been made. To maintain its employee trust status, each year the trust has to 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 year of allocation as the beneficiaries' income from employment. Report this income on a T4A slip, **not** on a T3 slip. Complete Schedule 9, *Summary of Income Allocations/Designations to Beneficiaries*, or an equivalent statement of allocation, and include it with the T3 return. For more information, see Interpretation Bulletin IT-502, *Employee Benefit Plans and Employee Trusts*, and its Special Release. For T4A reporting requirements see the *Employers' Guide to Payroll Deductions — Basic Information*.

Investment club

If an investment club is a bona fide trust, you have to file a T3 return for the club. Normal trust rules will apply.

An investment club is not always a partnership, trust, or corporation. In this case, its responsible officials may elect that it be treated as a partnership (referred to as a **modified partnership**) to make it easier to determine and report income for each member.

For fiscal periods ending after December 31, 1990, responsible officials of an investment club that made this election have to file Form T5013, *Partnership Information Return*. For details, see the *Income Tax Guide for the Partnership Information Return,* and Information Circular 73-13, *Investment Clubs*, and its Special Release.

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)

An individual (the transferor) may transfer or lend property **to a trust** for the benefit of the transferor's **spouse**. In this case, the transferor (while alive and resident in Canada) and not the trust may have to report the income from the property. The transferor may also have to report any taxable capital gain on the subsequent disposition of the property by the trust.

An individual may transfer or lend property **to a trust** for the benefit of a beneficiary who is a **related minor**.

In this case, the income from the property may be attributed to the transferor and taxed in the transferor's hands (while alive and resident in Canada.) For this purpose, a related minor 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 turns 18 before the end of the year, 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 no 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, are 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 information, 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 trustee has to file a T3 return and issue a T3 slip reporting the income as that of the transferor.

An individual may receive a low-interest or interest-free loan **from** (or become indebted to) **a trust** to which property was transferred by another individual. If the two individuals do not deal at arm's length, the trust (lender) has 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.

Chapter 2 — Definitions

This chapter describes, in a general way, technical terms that we use in this guide.

Administrator (administratrix) — A person appointed by the court to settle the estate of a person who has died.

Allocate (allocation) — To assign, set apart, or distribute income or property from the trust to a beneficiary. These amounts have to be included in the beneficiary's income. For more information, see "Allocations or designations" on page 40.

Arm's length — Describes a relationship such as one found in a business transaction where no party has a direct influence over the other or others.

Arm's length transaction — Describes a transaction between unrelated parties. Each party acts in his or her own self-interest. Related persons are not considered to deal with each other at arm's length. Related persons include individuals connected by blood relationship, marriage, or adoption, such as a husband and wife, or a father and son. Also, a corporation and a shareholder who controls the corporation are related.

Unrelated parties may not be dealing with each other at arm's length if, for instance, one is under the influence or control of the other. If you would like more information on this, see Interpretation Bulletin IT-419, *Meaning of Arm's Length*, and its Special Release.

Adjusted cost base (ACB) — We explain this term on page 26.

Beneficiary — The person for whose benefit the trust is created, or the person to whom the amount of an insurance policy or annuity is payable.

Clearance certificate — We explain this term on page 8.

Communal organization — We explain this term on page 10.

Cumulative net investment loss (CNIL) — We explain this term on page 37.

Cost amount — We explain this term on page 26.

Deemed disposition — This term is used when you are considered to have disposed of property, even though you did not actually sell it.

Deemed proceeds of disposition — This term is used when you are considered to have received an amount for property, even though you may not actually receive any funds.

Designate (designation) — To definitely identify income amounts so that the trust can either allocate them to a beneficiary (see the definition of "Allocate" earlier on this page), or keep them in the trust. This allows the trust or the beneficiary to take advantage of some *Income Tax Act*

special provisions (deductions or credits) that apply to that income. Generally, amounts designated to a beneficiary keep their identity in the flow-through from the trust to the beneficiary. For more information, see "Allocations or designations" on page 40.

Designated beneficiary — We explain this term on page 49.

Disposition (dispose of) — This is usually an event or transaction where you give up possession, control, and all other aspects of property ownership.

Distribution — To divide the estate property among beneficiaries according to the terms of the trust document, or according to the applicable statute.

Election (elect) — These words mean that you can choose whether or not to do something provided for under the law.

Eligible beneficiary — We explain this term on page 49.

Eligible capital property — This is property, used to earn business income, that does not physically exist but gives lasting economic benefit. Examples are farming or fishing quotas, licenses, trademarks, customer lists, and goodwill.

Employee benefit plan — We explain this term on page 10.

Employee trust — We explain this term on page 11.

Executor (executrix) — An individual or trust institution nominated in a will and confirmed by a court to settle the estate of the testator. We define testator later in this chapter.

Fair market value (FMV) — This is the highest dollar value that you can get for your property in an open and unrestricted market at a specific point in time. In an open and unrestricted market, the parties of the transaction deal with each other at arm's length, and are not forced to buy or sell.

Flow-through entity — Under proposed legislation, a flow-through entity means an investment corporation, a mortgage investment corporation, a mutual fund corporation, a mutual fund trust, a partnership, a related segregated fund trust, a trust governed by an employee profit-sharing plan, a trust created to hold shares of the capital stock of corporations for the benefit of their employees, a trust established for the benefit of creditors in order to secure certain debt obligations, and, a trust established to hold shares of the capital stock of a corporation in order to exercise the voting rights attached to such shares.

Gift — A gift is a voluntary transfer of property (including money) without valuable consideration. Also see the definition of "Inter vivos gift" below.

Inter vivos — Between living persons.

Inter vivos gift — A gift of property between living persons. To make such a gift effective, the property has to be actually delivered during the lifetime of the donor and without reference to his death.

Inter vivos trust — A trust that is not a testamentary trust.

Intestate — Having made no will. Not disposed of by a will.

Intestacy — An intestacy arises when a person dies without a valid will.

Investment club — We explain this term on page 11.

Listed Personal property — We explain this term on page 28.

Mutual fund trust — We explain this term on page 9.

Non-arm's length — Describes a relationship such as one found in a business transaction where one party could have a direct influence over the other or others. We consider that related persons are dealing with each other at non-arm's length.

Non-arm's length transaction — This is a transaction between people who were not dealing with each other at arm's length at the time of the transaction. Please see the definition of "Arm's length transaction" in this chapter.

Non-profit organization — We explain this term on page 11.

Outlays and expenses — We explain this term on page 26.

Personal trust — We explain this term on page 9.

Preferred beneficiary — We explain this term on page 44.

Principal residence — A principal residence is a property that is housing unit, a leasehold interest in housing unit or a share of a co-operative housing corporation acquired for the sole purpose of acquiring the right to inhabit a housing unit.

Proceeds of disposition — We explain this term on page 26.

Segregated fund trust — We explain this term on page 11.

Settlor - The person who sets up a trust, or the person who transfers property to a trust. For more information about the restrictive meaning of settlor, see Interpretation Bulletin IT-374, *Meaning of Settlor*.

Spouse 252(3), (4) - The term spouse applies to a legally married spouse and a common-law spouse. A common-law spouse is a person of the opposite sex who, at that particular time:

- was living with another person in a common-law relationship, and is the natural or adoptive parent (legal or in fact) of that person's child; or
- was living with another person in a common-law relationship and had been living with that person for at

least 12 continuous months, or had previously lived with that person for at least 12 consecutive months (when you calculate the 12 continuous months, include any period of separation of less than 90 days).

Once either of these two situations applies, we consider a person to have a common-law spouse, except for any period that they were separated for 90 days or more due to a breakdown in the relationship.

For the purposes of the T3 return, the person is the testator, settlor or beneficiary of the trust (as the case may be).

Spousal trust — We explain this term on page 9.

Testamentary trust — A trust or estate that arose on the death of an individual because of his or her death, which has not been created by any person other than that individual. A trust will cease to be a testamentary trust if contributions are later made by living persons. For more information, see this term on page 8.

Testator (testatrix) — The deceased person who made and left a valid will.

Trust — A trust is a binding obligation, voluntarily undertaken, but enforceable by law when undertaken. It may be created by:

- a person (either orally, or by a written instrument);
- a court order; or
- statute.

When the trust is created, the responsibility for property real and/or personal is taken on by the trustee for the benefit of a person or persons on the instructions of the settlor, court, or statute.

Three essential characteristics are fundamental to a trust. There has to be certainty of:

- the intent to create a trust;
- the property to be placed in trust; and
- who the beneficiaries of the trust are.

Trustee — An individual or trust institution that holds legal title to property in trust for the benefit of the trust beneficiaries. An executor, administrator, assignee, or receiver who owns or controls property for some other person.

Trust for a minor — We explain this term on page 9.

Unit trust — We explain this term on page 9.

Vested interest — An immediate fixed interest in property, although the right of possession and enjoyment may be postponed until a future date or event.

Will — A legally enforceable document that declares the intentions of the testator about disposal and administration of his estate after his or her death. It is effective only at death and can be revoked at any time before death.

Chapter 3 — Completing the T3 Return

The T3, *Trust Income Tax and Information Return*, is a four-page form with related schedules. As the preparer, you have to:

- complete the "Identification" area in full (page 1);
- report income and deductions to calculate net income (page 2);
- deduct trust income that is allocated and designated to its beneficiaries (page 2);
- claim the deductions to arrive at taxable income (page 4); and
- determine any tax payable (page 4).

Step 1 Identification

*Complete **all** items on page 1 of the return.* You have to provide this information each year that you file a T3 return. We may have to delay the assessment of the return if you do not provide the necessary information.

Follow these guidelines when you complete this area of the return:

- **Name of trust** — Be sure to use the same name on all returns and correspondence for the trust.
- **Account number** — If we have assigned an account number 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** — It is very important that you complete each item fully and correctly because we use the information about the residence of the trust and type of trust to determine the correct rate of tax. For information about the type of trust, see "Types of trusts" on page 8.
- **Date of death** (testamentary trust) or **date trust created** (inter vivos trust) — Please provide this information on each return filed.
- **Non-profit organization** — If the non-profit organization is incorporated, enter the corporation account number we have assigned.

Question 1

You have to answer this question for each trust that is not a mutual or segregated fund trust. If the trust is one of a number of trusts created from contributions made by the same individual, attach a list of those trusts. The list should show the name, address, and account number of each trust, and the share of the basic exemption from minimum tax that has been allocated to each trust for the current taxation year (see "Line 1226" on page 57). The legal representative of each trust has to sign this list.

Question 2

The sale of an income or capital interest in a trust is a change in ownership. Note that distributing estate property to beneficiaries is not a change in ownership for this question.

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 last exempt beneficiary has died in the year, see "Form T1015, *Election by a Trust to Defer the Deemed Realization Day*" on page 33.

Question 8

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

Question 9

You can make designations under subsections 104(13.1) *and 104(13.2) only at the time you file the T3 return.* **After the return is filed, you cannot make, withdraw, or change designations under subsections 104(13.1) and 104(13.2).** See "Designated income to be taxed in trust" on page 41 for more information.

Step 2 Calculating total 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, *Summary of Dispositions of Capital Property*. If the amount at line 122 of Schedule 1 is a taxable capital gain, enter it at line 01.

If a trust's allowable capital losses (except allowable business investment losses as described under line 25) are more than the trust's taxable capital gains, the difference becomes a **net capital loss** for 1994. The net capital loss cannot be deducted from other income of the trust in 1994, or allocated to the beneficiaries (except as described under "Exceptions and limitations for income allocations" on page 41). The net capital loss can be applied back to the three previous years or forward indefinitely against any taxable capital gains of those years. See "Line 51" and "Line 52" on pages 21 and 22 for more information on losses.

Note

In the first taxation year of a testamentary trust, the legal representative can 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 "Testamentary trust — 164(6) election" on page 25.

Pending legislation — From tax changes announced on February 22, 1994

The February 22, 1994, budget eliminated the $100,000 capital gains exemption on capital property and eligible

capital property disposed of after February 22, 1994. Under proposed subsection 110.6(19), a personal trust can elect to report a capital gain on such property owned at the end of February 22, 1994 provided:

- the trust is resident in Canada throughout the trust's 1994 taxation year,
- the trust owned property at the end of February 22, 1994, and
  - the election results in an increase to the eligible taxable capital gains of the trust, and the eligible capital gains are designated to an individual or individuals who are beneficiaries of the trust on February 22, 1994, and who were resident in Canada at any time during the individual's taxation year in which the trust's taxation year which includes February 22, 1994 ends, or
  - the election results in an increase in the amount deductible by a spousal trust as a capital gains exemption for its taxation year that includes February 22, 1994, whose beneficiary spouse has died during that taxation year.

For more information, see Chapter 6, *Election by a Personal Trust to Report a Capital Gain* on page 67.

Note

If a trust sold capital property after February 22, 1994, and realized a gain, the gain will continue to be treated as a capital gain. If a trust sold eligible capital property, other than qualified farm property, during a taxation year which ends after February 22, 1994 and realized a gain, the gain will be treated as business income. For more information on calculating business income from the disposition of eligible capital property, see the income tax guide called *Business and Professional Income*. The trust may still be able to designate or claim (in the case of a spousal trust), the portion of the capital gain accrued to February 22, 1994 as eligible for deduction for 1994. Provided the trust is a personal trust, and owned the property at the end of February 22, 1994, the trust may be able to elect to report part or all of the accrued capital gain to February 22, 1994, by filing Form 94-115, *Election to Report a Capital Gain on Property Owned by a Personal Trust at the End of February 22, 1994* and thereby designate the capital gains eligible for deduction.

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

The amount you should enter at 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 payments received from a foreign retirement arrangement. Foreign retirement arrangements are 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)

Include at line 02 any lump-sum payments (accrued to December 31, 1971) the trust received from a pension fund or a deferred profit-sharing plan **if** you are allocating the trust income to beneficiaries. Attach all information slips the trust received.

You can choose to have these lump-sum payments taxed in the trust at a reduced rate. If income remains in the trust, and you will be applying ITAR 40 provisions, do not include the amount at line 02. Instead, enter "ITAR 40" at line 02 and at line 1109 of Schedule 11, and we will calculate the tax adjustment. 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*, cover this subject in more detail.

Line 03
Actual amount of dividends
82

Report the **actual amount** of taxable dividends the trust received from taxable Canadian corporations at line 03, and on line 805 of Schedule 8, *Statement of Investment income and calculation of Gross-up Amount of Dividends Retained by Trust.*. Attach all information slips the trust received.

Line 04
Foreign investment income*

Include all interest and other investment income from foreign sources at line 04. Report foreign income in Canadian funds at the gross amount before withholding taxes are deducted. Use the space at line 808 of Schedule 8, *Statement of Investment income and calculation of Gross-up Amount of Dividends Retained by Trust* to list the foreign investment income you are reporting at line 04.

Line 05
Other investment income*

At line 05, enter the amount from line 815 of Schedule 8.

Include all interest and investment income from Canadian sources except the dividends from taxable Canadian corporations reported at line 03. Attach all information slips received.

***Note**

Interest credited to the trust's account by a financial institution is interest received by the trust.

In the first year of a testamentary trust, report any interest income that has accrued to the person's date of death on the deceased taxpayer's final T1 return. Do not include it in income received and reported by the trust.

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

Enter net business income at line 06, and the gross business income at line 96. If a trust is carrying on a business other than farming or fishing, it has to use the

accrual method to determine net business income. Attach a separate profit and loss statement, such as Form T2124, *Statement of Business Activities*, and a balance sheet for each business carried on by the trust. For more information, see the income tax guide called *Business and Professional Income*.

Pending legislation — From tax changes announced February 22, 1994

The February 22, 1994, budget eliminated the $100,000 capital gains exemption on capital property and eligible capital property. Under proposed paragraph 14(1)(a), any gain realized on the disposition of eligible capital property, other than qualified farm property, during a taxation year which ends after February 22, 1994, is business income. For more information, see the income tax guide called *Business and Professional Income*.

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

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

Enter the net income from farming at line 07, and the gross farming income at line 97. Enter the net income from fishing at line 08, and the gross fishing income at line 98. Attach a statement of income and expenses to the return.

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, you have to use the same method each year. If you want to change the trusts method of determining income, contact your income tax office to find out how.

The income tax guide called *Farming Income* contains Form T2042, *Statement of Farming Activities*, to help you determine farming income. The income tax guide called *Fishing Income* contains Form T2121, *Statement of Fishing Activities*, to help you determine fishing income.

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

Enter the net income from real estate rentals at line 09, and the gross rental income at line 99. If the trust is a member of a partnership, enter the trust's share of the net rental income at line 09, and the partnership's total rental income at line 99.

Attach a statement of real estate rentals, such as Form T776, *Statement of Real Estate Rentals*, to the return. To get more information and a copy of this form, see the income tax guide called *Rental Income*.

There are some special rules for calculating the cost of depreciable property that the trust acquired by gift, bequest, or inheritance. The rules are explained in Appendix A "Cost of Additions of Depreciable Assets" on page 71.

Line 10 NISA Fund No. 2

12(10.2), 104(5.1), 104(14.1), 104(6)(b), 248(1)

NISA Fund No. 2 is 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.

The amounts the trust has to report include payments received, and amounts deemed to have been received, by the trust out of its NISA Fund No. 2. They are property income of the trust, and have to be reported them at line 10.

Starting in 1994, payers of farm support payments issued information slip AGR 1, *Statement of Farm Support Payments*, to producers who received such payments. The AGR slips which are issued early in each calendar year to producers who received more than $100 per program, summarize payment information for the previous calendar year. Information on the AGR slips apply to most agricultural programs, including those delivered by *Agriculture Canada*, provinces, municipalities, and producer organizations.

A NISA Fund No. 2 can be transferred to a testamentary spousal trust on the death of the settlor. In this case, if the beneficiary spouse dies, the trustee has to report a deemed payment on the day the beneficiary spouse dies. The deemed payment is 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 can 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)" on page 18.

At line 10, the trust should report the amount, if any, by which A is more than 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

is more than

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

You should make separate calculations for each amount either paid or deemed paid.

Income reported at line 10 is taxable in the trust. Do not include it in "Total income allocations or designations to beneficiaries" at 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 the trust wants to make a subsection 104(14.1) election, you should submit the following information with the T3 return on which the trust is reporting, or would have reported the deemed disposition:

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

Line 11
Deemed realizations

104(4), (5), (5.2)

Report the trust's income resulting from "21-year deemed realizations" at line 11. Calculate this amount on Form T1055, *Summary of Deemed Realizations*. For more information, see "Deemed realization (disposition) — 21-year rule" on page 31.

Line 19
Other income

Under "Other income," report the total of any type of income the trust 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 information, see Interpretation Bulletin IT-337; and
- certain employment-related income (see "Appendix B" on pages 72 and 73 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 slip, or a statement from the deceased person's employer, that 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 you should report at 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 at line 19 will reduce the amount of death benefit that you can designate to the beneficiaries. For more information, see "Line 935" on page 47.

Registered retirement savings plan (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 slip issued to the estate. The trust should include this amount in "Other income" at line 19. Please note that benefits normally shown on a T4RSP slip have to be reported on a T1 return. For more information on taxable benefits from matured and unmatured RRSPs, see the income tax guide called *RRSPs and Other Registered Plans for Retirement* and Interpretation Bulletin IT-500, *Registered Retirement Savings Plans (maturing after June 29, 1978) Death of an Annuitant after June 29, 1978.*

Step 3
Calculating net income
Lines 21 to 50

Line 21
Carrying charges

20(1)(a), 20(1)(c), 20(1)(bb),20(2.1)

At line 21, enter the total carrying charges from line 820 of Schedule 8.

Carrying charges paid to third parties include:

- interest on money borrowed to earn investment income;
- fees for the management or safe custody of the investment;
- safety-deposit-box charges;
- accounting fees for recording investment income; and
- investment counsel fees.

Do not include brokerage fees the trust incurred to purchase and sell securities. If the trust incurred brokerage fees to purchase the security, they are part of the cost of a security. If the trust incurred them to sell the security, you can claim them as "Outlays and expenses from dispositions" in column 4 of Schedule 1.

The trust can deduct interest expense on a life insurance policy loan if the trust used the proceeds of the loan to earn income. If the trust elects to add the interest expense to the adjusted cost base of the policy, then it cannot be deducted it at line 21. If the 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. For more information, see Interpretation Bulletin IT-355, *Interest on Loans to Purchase Life Insurance Policies and Annuity Contracts and Interest on Policy Loans*, from your income tax office.

Lines 22 to 24
Trustee fees

9(1), 20(1)(bb)

The trust can deduct executor and trustee fees from the trust's income at line 22 if the trust paid fees to a person for giving advice on purchasing or selling, or for administering or managing shares or securities. Note that the person's principal business has to consist of either giving advice to others on how to purchase or sell shares or securities, or providing administration or management services for shares or securities. For more information, see Interpretation Bulletin IT-238, *Fees Paid to Investment Counsel.*

The above outlays do not include executor and trustee fees the trust incurred to gain or produce business or property income. You can deduct such fees when you calculate the trust's business or property income, but you cannot deduct them again at this line.

Trustee fees for looking after real property (e.g., a residence) used by a life beneficiary of a testamentary trust are not fees incurred to earn business or property income. Therefore, you cannot deduct them when you calculate the income of the trust.

We consider executor fees to be income from an office if the trust pays them to an individual who does not act in this capacity in the normal course of business. If the executor and trustee fees the trust paid are $500 or more, report them on a T4 slip. If the trust pays fees to a non-resident of Canada for services performed in Canada, report them on a T4A-NR slip. Be sure to report the **total** amount of fees paid on the T4 slip or T4A-NR slip. For more information, see the *Employers' Guide to Payroll Deductions — Basic Information*, and Interpretation Bulletin IT-377, *Director's, Executor's, and Juror's Fees*. Note that you have to file T4 and T4A-NR slips by the last day of February after the calendar year in which the trust made the payment.

Line 25
Allowable business investment loss (ABIL)

38(c), 39(1)(c), 39(10), 50(1), 104(21.2)

The trust may have a business investment loss if it has a capital loss that results from the actual or deemed disposition of certain capital properties. This can happen if the trust has:

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

When you calculate the allowable portion the trust can claim, you may have to reduce the business investment loss of the trust. If the trust designated part or all of its eligible taxable capital gains to a beneficiary of the trust in a previous year, you have to reduce the trust's business investment loss for 1994.

We explain this in the next section, called "Reduction in business investment loss(es)."

The trust's **allowable business investment loss (ABIL)** is three-quarters of the business investment loss (whether or not reduced) the trust incurred in a taxation year ending after 1989. You can deduct the trust's ABIL from the trust's other sources of income for the year. If the trust's ABIL is more than its other sources of income for 1994, include the difference as part of its non-capital loss for 1994. The trust can carry a non-capital loss back three years and forward seven years. To carry a non-capital loss back to 1991, 1992, or 1993, you have to complete Form T3A, *Request for Loss Carry-Back by a Trust*. For more information about this form, see page 30. You can get Form T3A from your income tax office.

The trust may not be able to deduct its ABIL as a non-capital loss within the allowed time frame. If this is the case, the unapplied part becomes a net capital loss in the eighth year. You can then use it to reduce the trust's taxable capital gains in the eighth year or any year after.

Reduction in business investment loss(es)

The following chart will help you calculate the reduction in business investment loss(es). If the trust had more than one business investment loss in 1994 you can use this chart to calculate the trust's total reduction for 1994.

Reduction in business investment loss(es)

Looking at the chart, you will notice that we adjust the amount of the eligible taxable capital gain amounts designated by the trust to beneficiaries in previous years. We do this because capital gains were included in income at different rates in those years.

Total eligible taxable capital gain amounts designated by the trust in 1985, 1986, and 1987	________	× 2	=	________	(1)
Total eligible taxable capital gain amounts excluding eligible capital property designated by the trust in 1988 and 1989	________	× 3/2	=	________	(2)
Total deemed taxable capital gain amounts from eligible capital property designated by the trust in 1988 and 1989	________	× 4/3	=	________	(3)
Total eligible taxable capital gain amounts designated by the trust in 1990, 1991, 1992, and 1993	________	× 4/3	=	________	(4)
Add lines 1 to 4 inclusive				________	(5)
Total amount you used to reduce the trust's business investment losses in 1986 to 1993 (from the 1986 to 1993 trust returns)				________	(6)
Line 5 minus line 6				________	(7)
Business investment loss(es) for 1994 before reducing the loss(es)				________	(8)
Reduction in a business investment loss(es) for 1994: Line 7 or line 8, whichever amount is less				________	(9)
Business investment loss for 1994: Line 8 minus line 9				________	(10)
Allowable business investment loss(es) for 1994: Amount from line 10:	________	× 3/4	=	________	(11)

Transfer the amount from line 11 to line 25 of the trust's T3 return. The amount from line 9 becomes a capital loss for 1994. Enter this amount at line 113 of Schedule 1.

For more information, sec 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 that the trust can claim include legal and accounting fees. Claim only those amounts that were spent to earn income for the trust. Do not claim outlays and expenses that apply to the capital assets of the trust. If these outlays were incurred to purchase the asset, they are part of the cost of the asset. If they were incurred to sell the asset, they can be claimed as "Outlays and expenses from dispositions" in column 4 on Schedule 1. Do not claim the beneficiaries' or trustees' personal expenses. For example, funeral expenses or probate fees are not allowable deductions.

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

A trust that reports "resource profits" can claim, at line 40, 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." For example this includes royalties based on the amount or value of oil and gas production, and on which the recipient pays non-deductible Crown charges. If you are claiming a resource allowance in the trust, include a copy of your calculations as well as documents such as a T5 slip or a statement from the payer, to verify that the income qualifies for the resource allowance. Resource profits lose their identity when allocated to a beneficiary, therefore, a beneficiary cannot claim a resource allowance on income allocated from a trust.

Deductions have to be related to sources of income

Note that you have to deduct trust expenses before income can be allocated to the beneficiaries. The expenses have to

be applied directly to the income to which they relate. Expenses that relate to more than one source of income should be apportioned to the applicable sources of trust income.

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

If the trust made charitable donations, see "Line 1112, Charitable donations" on page 52 to determine whether you can deduct the donations as an allocation of trust income (on Schedule 9, line 926), or as a non-refundable tax credit on Schedule 11, line 1112.

Step 3 Calculating taxable benefits Lines 43 to 45

Line 43 Upkeep, maintenance, and taxes of any property used or occupied by any beneficiary

105(2)

The terms of the trust may require the trust to pay for the upkeep, maintenance, or taxes on property used or occupied by a beneficiary. If this is the case, the trust has to report the amounts paid on the beneficiary's T3 slip, and the beneficiary has to include it in income for the year it is paid. Enter, at line 43, only those amounts that have been included in the expenses of the trust (whether on a financial statement or at line 40). Give details of the amounts entered at this line, including the nature and amount of payment, and the line on the T3 return or financial statement 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 (for example, amounts paid for the beneficiary's personal or living expenses). You have to include these benefits on the T3 slip, and the beneficiary has to report them as income. The benefits reported here cannot be deducted from the income of the trust. Therefore, add them here to offset the income allocations or designations amount deducted at line 47 of the T3 return. Please provide details, including the nature of the benefits, for amounts entered at this line.

Line 47 Total income allocations/designations to beneficiaries

Enter at line 47, the total amount of trust income allocated or designated to beneficiaries from line 928, on Schedule 9. If you enter an amount here, complete the applicable summary forms and supplementary slips (T3, T4A, NR4).

Line 49 Gross-up amount of dividends retained by the trust

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

Page 3 Schedules and other information required

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

Question 10

If "yes", see "Preferred beneficiary election" on page 44. You have to make and file the preferred beneficiary election **no later than 90 days** after 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.

See "Distribution of property to beneficiaries" on page 25 for details.

Questions 16 and 17

If the answer is "yes" to either question, you have to file an election to amend the deceased person's T1 return for the year of death. See "Testamentary trust — 164(6) election" and "Testamentary trust — 164(6.1) election" on page 25 for more information.

Step 4 Calculating taxable income 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 trust can carry the unused portion of a non-capital loss forward seven years and back three years.

If the trust has an unused non-capital loss from a previous year, it can use the non-capital loss to reduce taxable income on the T3 return for 1994 Claim this amount at line 51.

If you claim a non-capital loss from a previous year, please enclose a continuity statement of the non-capital loss balances.

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 current year.

Farming and fishing losses 31, 111(1)(c), (d), 111(8)(b.1)

If the trust had farming losses and fishing losses after 1982, it can carry them forward ten years and back three years from the year they arose. There are restrictions on the amount of certain farm losses you can deduct each year. For more information on farming or fishing businesses, see the income tax guides called *Farming Income* or *Fishing Income*.

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).

To carry back an unused non-capital or farming and fishing loss in 1994, complete Form T3A, *Request for Loss Carry-Back by a Trust*. See page 30 for more information. You can get Form T3A from your income tax office.

Line 52
Net capital losses of other years

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

If the trust's allowable capital losses are more than the trust's taxable capital gains in a year, the difference is the trust's net capital loss for that year. The trust can carry the net capital loss back three years and apply it against the trust's net taxable capital gains in those years. The trust can also carry the net capital loss forward indefinitely and apply it against the trust's taxable capital gains.

Within certain limits, the trust can deduct all or a portion of the unused net capital losses of other years in the 1994 taxation year. (See "Form T3A, *Request for Loss Carry-Back by a Trust*" on page 30.) The trust can deduct them as follows:

- net capital losses occurring before May 23, 1985:
  - from any net taxable capital gains in the 1994 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 in the 1994 taxation year.

The inclusion rates for calculating the taxable portion of capital gains and the allowable portion of capital losses are:

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

If the trust claims 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 starting in 1984 and 1985);
- taxation year starting 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 current year.

If the trust is going to apply a net capital loss from a year before 1990 to a 1994 taxable capital gain, you will have to make an adjustment. This is because the inclusion rate was different in those years.

See the income tax guide called *Capital Gains* for details on how to apply net capital losses of other years.

Listed personal property losses 41(2)

Losses on listed personal property (LPP) can be applied only against an LPP gain. If you apply the unused portion of an LPP loss from another year against a current year LPP gain, make the claim on Schedule 1, at line 108, or on line 8 of Form 1055, if applicable. See "Listed personal property" on page 13.

The trust can carry the LPP loss back three years and forward for seven years and apply it against the trust's LPP gains in those years.

To carry back an LPP loss, complete Form T3A, *Request for Loss Carry-Back by a Trust*. For more information see page 30. You can get Form T3A from your income tax office.

If the trust claims an LPP loss from a previous year, please enclose a continuity statement of LPP balances. 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 current year.

Line 53
Capital gains deduction for resident spousal trust only

110.6(12)

A spousal trust can claim the unused portion of the beneficiary spouse's capital gains deduction (if resident in Canada) in the year that the beneficiary spouse dies. 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, and attach it to the T3 return. The amount at line 525 of this schedule is claimed at line 53 of the T3 return.

The deduction is not available to a pre-1972 spousal trust that has filed a Form T1015, *Election by a Trust to Defer the Deemed Realization Day*. For more information, see page 33.

Pending legislation — From tax changes announced on February 22, 1994

The February 22, 1994, budget eliminated the $100,000 capital gains exemption on capital property and eligible capital property disposed of after February 22, 1994. Under proposed subsection *110.6(19)* a personal trust can elect to report a capital gain on such property owned by the trust at the end of February 22, 1994. If a spousal trust makes this election, because the election is on property which qualifies for the capital gains deduction as at February 22, 1994, the trust's eligible capital gains on which it can claim a capital gains deduction will be increased.

The election is made on Form 94-115, *Election to Report Capital Gains on Property Owned by a Personal Trust on February 22, 1994.* Copies of Form 94-115 are with the T3 return and schedules in this package.

For more information, see Chapter 6, *Election by a Personal Trust to Report a Capital Gain*, on page 67.

Line 54
Other deductions to arrive at taxable income

The trust can claim prior year losses such as limited partnership losses and farm losses at line 54. The $2,000 deduction allowed to a non-profit organization reporting income from property should be claimed at this line. If, in its income, the trust has reported foreign income that is exempt from tax in Canada because of a tax convention, it can deduct the exempt amount at this line. If the trust is 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

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

If the amount that you calculated for line 56 was zero or less than zero, enter zero at line 56 but enter the actual amount on Schedule 12 at line 1221. This is necessary because if the amount at line 56 is zero or less than zero, the trust (other than a mutual or segregated fund trust) may have minimum tax. See "Schedule 12, Calculation of Minimum Tax", on page 55.

Step 5
Summary of tax and credits
Lines 81 to 100

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

If the trust made instalment payments or made payments before filing the return, enter the amount of these payments at line 85. If the number on the trust's receipt is not the same as the one on page 1 of the return, enter the account number shown on the receipt in the dotted space at line 85.

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 at line 86. 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. Get Form T184, *Calculation of Capital Gains Refund for a Mutual Fund Trust*, from your income tax office.

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

Line 90
Part XII.2 tax credit

Claim a Part XII.2 tax credit at line 90 if the trust is the beneficiary of another trust, and has received a T3 slip from that trust. Enter the amount from box 38 on the T3 slip.

Line 91
Refundable Northwest Territories tax credit

Claim this refundable tax credit if the trust reported net income from the Northwest Territories in 1994.

Use the following chart to calculate the trust's adjusted net income and the refundable Northwest Territories tax credit.

Calculating income for the refundable Northwest Territories tax credit

Net income from line 50 of the trust's T3 return (if negative, enter zero) .... ______ (A)

Foreign income exempt under a tax treaty (included at line 54 of the trust's T3 return) .... ______ (B)

Adjusted net income (line A minus line B) .... ______ (C)

Look up the trust's adjusted net income in the following table and calculate the tax credit below.

1994 rates

Net income	Credit
$12,000.00 or less	Enter 1.25% of the trust's adjusted net income at line D below
$12,000.01 to $48,000.00	$150 on the first $12,000, plus 1.0% of the net income over $12,000
$48,000.01 to $66,000.00	$510 on the first $48,000, plus 0.75% of the net income over $48,000
more than $66,000.00	Enter $645 at line D below

Adjusted net income: Amount from line C above ______

On the first ______ the credit is ______

On the remaining ______ the credit at ____ % is ______

Total refundable Northwest Territories tax credit .... ______ (D)

Transfer this amount to line 91 of the trust's T3 return.

Line 94
Balance owing or refund

Your refund or balance due is the difference between your total taxes payable (line 84) and your total credits (line 93).

If the difference is less than $2.00, you do not have to make a payment, and you will not receive a refund.

Line 95
Amount enclosed

Please make sure that every cheque (or statement attached to it) shows the trust's name and account number (if we have assigned a number to the trust). This is necessary so that we can credit payments to the proper account.

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 keep 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 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 keep the overpayment for next year. We will consider such a payment to have been received on the date we assessed your return.

Use code 2 if you want the year's overpayment applied to an expected assessment of an additional amount to be paid. Attach a letter to the return, providing details.

Certification area

Name of person or company (other than trustee, executor, or administrator) that prepared this return

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

Certification

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

Chapter 4 — Trust Schedules

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

You have to complete Schedule 1 and file it with the T3 return if the trust had dispositions or deemed dispositions of capital property during the year. Transfer the amount of taxable capital gains from line 122 to line 01 of the T3 return. If the amount is a loss, see Form T3A, *Request for Loss Carry-Back by a Trust,* on page 30.

A disposition of capital property includes:

- a sale of property;
- 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.

Report a deemed realization resulting from the 21-year deemed realization rule, on Form T1055, *Summary of Deemed Realizations*, not on Schedule 1. See page 31 for more information.

Pending legislation — From tax changes announced on February 22, 1994

The February 22, 1994, budget eliminated the $100,000 capital gains exemption on capital property and eligible capital property disposed of after February 22, 1994. Under proposed subsection 110.6(19), a personal trust can elect to report a capital gain on such property owned by the trust at the end of February 22, 1994, and thereby designate the elected capital gain and capital gain eligible for deduction to beneficiaries. In the case of a spousal trust, where the beneficiary spouse has died in the year, the trust may claim the capital gains deduction to which the beneficiary spouse would have been entitled on February 22, 1994. For more information see Chapter 6, *Election by a Personal Trust to Report a Capital Gain,* on page 67.

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), attach a statement to the T3 return giving details about all dispositions to the beneficiary within the taxation year.

Testamentary trust — 164(6) election
Regulation 600, 1000

As the legal representative administering the estate, you can elect to transfer certain estate losses to the deceased person's T1 return for the year of death. This election applies only to the first taxation year of a deceased person's estate. Regulation 1000 describes the prescribed manner and prescribed time to make the election. There is no special form for making this election — just attach a letter to the T3 return with a schedule of the estate's losses you are electing to transfer. If you need more help, contact your income tax office for details about the information we need.

The trust cannot claim losses if you have elected to transfer those losses to the deceased. Any portion of the losses you do not transfer are subject to the normal loss provisions available to the trust.

This election applies to estate losses that occurred when the trust:

- disposed of the estate's capital property, resulting in more capital losses than 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 a terminal loss cannot be more than the trust's combined non-capital loss and farm loss calculated before the legal representative made the election.

You have to file this election and an amended T1 return for the deceased person for the year of death by the later of:

- the last day you have to, or have elected to, file a T1 return for the year of death; and
- the day you have to file the estate's T3 return for its first taxation year.

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

Note

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

In some circumstances (usually those beyond your control), *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, see Information Circulars 92-1, *Guidelines for Accepting Late, Amended or Revoked Elections* and 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).

Testamentary trust — 164(6.1) election

An election is also available for employee stock options that expired, or were exercised or disposed of, within the first taxation year of the estate. The trust can make this election if the disposition resulted in a gain that is less than the deemed employment benefit you reported on the deceased person's final return. The trust can elect to treat this reduction in value as a loss from employment for the year in which the person died.

The amount that the trust can elect to carry back to the deceased person's final return is equal to the amount by which:

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

is more than the total of:

(b) the amount by which the value of the option immediately before it expired, was exercised, or disposed of, **is more than** the amount paid by the deceased person to acquire the option; and

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

If the trust makes this election, you have to reduce the trust's adjusted cost base of the option by the amount of the loss determined above, [(a) - (b)], without taking (c) into consideration.

You have to file this election and an amended T1 return for the deceased person for the year of death by the later of:

- the last day you have to, or have elected to, file a T1 return for the year of death; and
- the day you have to file the estate's T3 return for its first taxation year.

Capital gains
3, 38, 39, 40

The taxable portion of a capital gain and the allowable portion of a capital loss is 75% (3/4).

The general rules to follow when you report a capital gain or loss depend on the type of asset the trust disposed of, or was deemed to dispose of. For more information on capital gains or losses, see the income tax guide called *Capital Gains*.

Capital dispositions — Other terms

Proceeds of disposition
107(2), 107(4)

This is usually the amount that the trust received or will receive for its property. In most cases, it refers to the sale price of the property. In certain situations, the proceeds of disposition is set by rules in the *Income Tax Act*.

When a **personal trust** distributes property to a beneficiary to settle in whole or in part the beneficiary's capital interest in the trust, we consider the trust to have received 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.

When a **post-1971 spousal trust** whose spouse beneficiary is still alive, distributes property (capital property, resource property, or land inventory) to a person who is not the beneficiary spouse, we consider the trust to have received proceeds of disposition equal to the property's fair market value (FMV). If the property is depreciable property disposed of before 1993, we consider the proceeds to be the amount that is half-way between undepreciated capital cost and FMV.

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 the income tax guide called *Capital Gains*, and 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. You can apply these outlays and expenses to reduce a trust's capital gain or increase its 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. You cannot claim them as deductions from the trust's income.

Assets acquired before 1972

Capital gains were not taxed before 1972. Therefore, for property the trust acquired before 1972, the valuation day value has to be considered when you calculate the trust's capital gains and losses. This is so any gain on the property, which accrued to January 1, 1972, is not taxed. Valuation day is December 22, 1971, for shares listed in the publication *Valuation Day Prices of Publicly Traded Shares* (available from your income tax office). Valuation day for all other property is December 31, 1971.

You can use Form T1105, *Supplementary Schedule for Dispositions of Capital Property Acquired Before 1972* to calculate the trusts capital gain or loss. This form is available from your income tax office.

Median rule Income Tax Application Rules
(ITAR) 24 and 26(3)

To calculate a capital gain or loss on a property acquired before 1972, three values are required:

- the actual cost;
- the valuation day value; and
- the proceeds of disposition.

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. Calculate the capital gain or loss on the deemed cost, unless you choose the "Valuation day value election." When two or more of

these three amounts are the same, that amount will be the median.

We consider the median amount to be the cost of the property. You should enter this amount in Column 3 of Schedule 1 if there are no adjustments to the cost base. A capital gain results if the proceeds of disposition are more than 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. For more information, get Interpretation Bulletin IT-84, *Capital Property Owned on December 31, 1971 — Median Rule (Tax-Free Zone.)*

Valuation day value election ITAR 26(7)

The trust can elect to use the valuation day value as the cost for all transactions instead of using 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. Make this election on Form T2076, *Valuation Day Value Election for Capital Properties Owned on December 31, 1971*. This form is available from your income tax office.

Line 101
Qualified small business corporation shares

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

A personal trust has to report the capital gain from disposing of this type of share at line 101. Do not report a loss the trust incurred in disposing shares of, or debts owing by, a small business corporation in an arm's length transaction. For information on this type of loss, see "Line 25" on page 19.

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 personal trust, owned the share;
- throughout the 24 months before the disposition, only the personal trust, or a person or a partnership related* to the personal trust owned the share; and
- throughout that part of the 24 months immediately before the disposition, while the personal trust, or person or partnership related* to the personal 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 personal trust;
- if the personal trust is a member of the partnership; or
- when the personal trust disposes of the shares, all the beneficiaries are related to the person from whom the personal trust acquired the shares.

Line 102
Qualified farm property

110.6(1)

A personal trust has to report a capital gain from the disposition of qualified farm property at line 102.

Qualified farm property of a personal trust includes property **owned** by the personal 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 personal trust has designated taxable capital gains; or
  - a family farm corporation or family farm partnership of the personal trust or beneficiary, or the beneficiary's spouse, child, or parent.

Lines 101 and 102

Capital gains reported at lines 101 and 102 qualify for the higher capital gains deduction limit when a spousal trust claims the deduction, or when you designate capital gains to an individual beneficiary. We provide more information under "Schedule 6" on page 38, under Schedule 9 — "Footnotes for line 921 (and box 21)" on page 45, and "Footnotes for line 926 (and box 26)" on page 46, and under "Completing the T3 Supplementary slip" on page 61.

For more information on qualified small business corporation shares, see the income tax guide called *Capital Gains*. For more information about qualified farm property, see the income tax guide called *Farming Income*.

Other securities and properties

39

This category includes such properties as shares, bonds, debentures, promissory notes, and real estate. These are neither **qualified small business corporation shares**, nor **qualified farm property**. Therefore, they do not qualify for the higher capital gains deduction when you designate them to an individual beneficiary or when a spousal trust claims them.

Line 103
Shares

Use this section to report a gain or loss when the trust sells shares or securities that are not described in any other section of Schedule 1. See the income tax guide called *Capital Gains* for more information.

Line 104
Bonds, debentures, promissory notes, and other properties

47(2), ITAR 26(8)

Because you can buy bonds at a discount or premium, we have set out some rules for determining the cost figure for bonds that the trust acquired before 1972. Form T1105, *Supplementary Schedule for Dispositions of Capital Property Acquired Before 1972*, and Interpretation Bulletin IT-114, *Discounts, Premiums and Bonuses on Debt Obligations*, are available to help you do the calculations. See the income tax guide called *Capital Gains* for more information.

Line 105
Real estate and depreciable property

54(a), ITAR 20(1)

The trust can have a capital gain on depreciable property if it sold the property for more than its original capital cost. If the trust owned the property on December 31, 1971, the gain is limited to any gain since valuation day. The trust cannot have a capital loss on the disposition of depreciable property. However, the trust can have a terminal loss under the capital cost allowance rules when it disposes of all the property of a particular class. See "Real estate and depreciable property" in the income tax guide called *Capital Gains* for more information.

Capital gains which apply to the period after February 1992 on certain real estate, and other properties whose value comes mostly from real estate, do not qualify for the capital gains deduction. For more information see "Line 303, Non-eligible amounts" on page 36.

For more information about the disposition of depreciable property, see Interpretation Bulletin IT-217, *Capital Property Owned on December 31, 1971 — Depreciable Property*, and its Special Release.

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 the trust disposed of such an asset for more than its adjusted cost base, the trust may have to report a capital gain. Report a gain 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, use $1,000 as the adjusted cost base. A capital loss is not allowed on personal-use property. However, you may be able to deduct certain debts from the disposition of such property and listed personal property. For more information, see "Personal-use property" in the income tax guide called *Capital Gains*, and Interpretation Bulletin IT-332, *Personal-Use Property*.

Principal residence

40(4), 54(g), 107(2.01)

If a personal trust acquires a principal residence, that trust will usually be exempt from tax on any gain realized on the disposition or deemed disposition of that residence after 1990. To be exempt, the residence has to qualify **and** be designated by the trust as its principal residence. Usually a residence can be so designated if it is inhabited by a **specified beneficiary**, or a spouse, former spouse, or child of the specified beneficiary. The personal trust can only designate one property as a principal residence. Also, the specified beneficiary cannot designate any other property as a principal residence.

For this purpose, a **specified beneficiary** is a beneficiary who had a beneficial interest in the personal 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.

You have to make the trust's designation on Form T1079, *Designation of a Property as a Principal Residence by a Personal Trust*. You have to file this form 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 to have a deemed disposition of the principal residence at fair market value. You have to make this election on the trust's return for the year of distribution. You can then apply the principal residence exemption to any gain on the trust's deemed disposition. The beneficiary will acquire the property at fair market value.

In the case of a spousal trust, this provision applies to distributions occurring after May 9, 1985. In the case of other personal trusts, this provision applies to distributions occurring after 1990. If the distribution took place after 1990 and on or before June 10, 1993, a transitional rule allows trusts (other than spousal trusts) to make the election until December 10, 1993.

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 its Special Release, and IT-120, *Principal Residence*.

Lines 107 to 109
Listed personal property

41, 54(e)

Listed personal property (LPP) consists only of:

- prints, etchings, drawings, paintings, sculptures, or other similar works of art;
- jewellery;
- rare folios, rare manuscripts, and rare books;
- stamps; and
- coins.

Since an LPP is a type of personal-use property, you have to calculate the gain or loss on the sale of an item or set of items in the same manner as you would calculate the gain or loss on personal-use property. If the adjusted cost base or the selling price is less than $1,000, use $1,000. If the trust has sold such an item or set of items for less than its adjusted cost base, the trust may be able to claim a capital loss on the trust's return. The trust should report the loss only if the adjusted cost base is more than $1,000.

You can apply the trust's LPP losses only against its LPP gains. When these losses exceed these gains in a year, you can use the excess to reduce the trust's net gains on LPP in the preceding three years and the seven immediately following years. See listed personal property losses on page 22.

Line 110
Information slips

Use this line to report the following amounts:

- capital gains from box 21 and insurance segregated fund capital losses from box 37 of a T3 slip;
- capital gains (or losses) from box 34 of a T4PS slip;
- capital gains dividends from box 18 of a T5 slip; and
- capital gains (or losses.) of a T5013 slip.

A T3 slip that the trust received may have an asterisk (*) in box 21 and a footnote in the area below boxes 41 and 42. If this is the case, do not report those amounts at line 110. Instead, report the amount for qualified small business corporation shares at line 101, and report the amount for qualified farm property at line 102.

Note

If you complete Schedule 3, *Calculation of a Trust's Eligible Taxable Capital Gains*, use line 303 to report the amounts from information slips that are **not** eligible for the capital gains deduction.

Line 111
Capital gain from election to report capital gain on property owned on February 22, 1994
110.6(19)

Pending legislation — From tax changes announced on February 22, 1994

The February 22, 1994, budget eliminated the $100,000 capital gains exemption on capital property and eligible capital property disposed of after February 22, 1994. Under proposed subsection 110.6(19) a personal trust can elect to report a capital gain on such property owned at the end of February 22, 1994, and thereby designate the capital gain and the gain eligible for deduction to beneficiaries, or, in the case of a spousal trust, where the beneficiary spouse died in the year, claim the capital gains deduction to which the deceased beneficiary spouse would have been entitled to on February 22, 1994.

For more information see Chapter 6, *Election by a Personal Trust to Report a Capital Gain*, on page 67.

Report a capital gain from the election at line 111.

Line 113
Capital loss arising from reduction in business investment loss

For information on a reduction in business investment loss, see "Reduction in business investment loss(es)" on page 19.

Line 114
Capital gains reduction on flow-through entities

Pending legislation — From tax changes announced on February 22, 1994

The February 22, 1994 budget eliminated the $100,000 capital gains exemption on capital property and eligible capital property disposed of after February 22, 1994. If the trust elects to report a capital gain on the trust's interest in or shares of a flow-through entity, it can create an exempt capital gains balance. The trust can use the exempt capital gains balance to reduce capital gains flowed to the trust by a flow-through entity or capital gains it realizes on a later disposition of the interest in, or shares of, the flow-through entity. This will reduce the amount of capital gains allocated to beneficiaries so that the beneficiaries are not taxed again on the amount of capital gains allocated to them at the time of the election.

Claim a capital gains reduction on line 114. The reduction for each flow-through entity is limited to the extent of exempt capital gains balance for that entity.

For more information see Chapter 6, *Election by a Personal Trust to Report a Capital Gain*, on page 67.

Line 117
Total amount of reserves

If the trust had a taxable capital gain but did not receive the full sale price, it can claim a reserve for the unpaid amount. Generally, the minimum amount of a trust's capital gain it has to report each year is one-fifth of the taxable capital gain. If the trust claimed a reserve in the trust in 1993, you have to bring it back into the trust's income in 1994. If all of the proceeds are not due in 1994, the trust can claim a new reserve. If you are claiming a reserve on the trust's return, you have to complete Schedule 2. For more information on reserves, see the income tax guide called *Capital Gains*, and Interpretation Bulletin IT-236, *Reserves — Dispositions of Capital Property*.

Lines 120 and 121
Deemed taxable capital gain on disposition of eligible capital property
14(1), 20(4.2), 39(11)

Certain kinds of property that do not physically exist are called eligible capital property. Examples of this kind of property are goodwill, customer lists, trademarks, and milk quotas.

If the trust has these types of properties, the trust may have a taxable capital gain when it disposes of them. Information

on what amount is a capital gain is provided in the income tax guides called:

- *Business and Professional Income*;
- *Farming Income*; and
- *Fishing Income*.

When the trust disposes of eligible capital property, it may have a taxable capital gain that you have to report at line 121 of Schedule 1. If the trust disposes of an eligible capital property that relates to qualified farm property, it may have a taxable capital gain that you have to report at line 120 of Schedule 1.

Pending legislation — From tax changes announced on February 22, 1994

Under proposed paragraph 14(1)(a), effective for taxation years ending after February 22, 1994, gains realized on the disposition of eligible capital property, other than qualified farm property, are business income. For more information, see the income tax guide called *Business and Professional Income.*

If the trust has a bad debt arising from the disposition of eligible capital property, you can deduct three-quarters of that loss as an allowable capital loss for the trust at line 120 or 121 of Schedule 1, whichever line applies. Alternatively, if the trust has never designated capital gains to beneficiaries, you can claim this allowable capital loss as a deduction from trust's total income at line 40 on page 2 of the T3 return.

Canadian cultural property
39(1)(a)(i.1), 118.1(10)

For information on dispositions of Canadian cultural property, see "Selling or donating certified Canadian cultural property" in the income tax guide called *Capital Gains,* and Interpretation Bulletin IT-407, *Disposition after 1987 of Canadian Cultural Property*.

Line 122
Total taxable capital gains
40(1)

Transfer the amount of taxable capital gain from line 122 to line 01 on page 2 of the T3 return. If you calculate an allowable capital loss for the trust on Form T1055, *Summary of Deemed Realizations*, see that form for a possible adjustment to this line.

Do not enter a loss at line 01. The trust can use a capital loss only to offset a capital gain. Any excess becomes a net capital loss that you can apply against the trust's taxable capital gains in a previous or future year. You have to request a loss carry-back on or before the due date of the T3 return for the year in which the loss occurs. See "Form T3A, *Request for Loss Carry-Back by a Trust*" later on this page.

Capital gains deduction 110.6(12)

When the beneficiary spouse dies, you may be able to reduce the spousal trust's taxable capital gain. You can do this by claiming the unused portion of the beneficiary spouse's capital gains deduction. This reduction may also be available to a pre-1972 spousal trust reporting a deemed realization on either January 1, 1993, and the death of the beneficiary spouse, whichever is later. It is available if the pre-1972 spousal trust does not make an election on Form T1015, *Election by a Trust to Defer the Deemed Realization Day*. Calculate the capital gains deduction on Schedule 5, and claim it at line 53 of the T3 return.

Pending legislation — From tax changes announced on February 22, 1994

The February 22, 1994, budget eliminated the $100,000 capital gains exemption on capital property or eligible capital property disposed of after February, 22 1994. Under proposed subsection 110.6(19), a personal trust can elect to report a capital gain on such property owned by the trust at the end of February 22, 1994. If a spousal trust makes this election and the beneficiary spouse has died in the year, because the election is on property which qualifies for the capital gains deduction as at February 22, 1994, the trust's eligible capital gains on which it can claim a capital gains deduction will be increased.

For more information see Chapter 6, *Election by a Personal Trust to Report a Capital Gain,* on page 67.

Records — Capital transactions

You will need to keep the records or vouchers that contain the information you used to calculate the trust's capital gains or capital losses for the year. You do not need to include these documents with the return as proof of any sale or purchase of capital property. However, it is important that you keep these documents in case we ask to see them later.

If you need more detailed information on keeping records, see Information Circular 78-10, *Books and Records Retention/Destruction*.

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

If you want to carry a trust's loss back to a previous year, you have to make your request on or before the due date of the T3 return for the year in which the trust incurred the loss. To make a request, use Form T3A, *Request for Loss Carry-Back by a Trust*. You can use this form to carry back non-capital, farming, fishing, net capital, listed personal property, and restricted farm losses. You can file the form separately or attach it to the current year's T3 return.

If the losses are not fully absorbed by incomes from previous years, keep a schedule of the unused losses so you can deduct them in future years. Always apply the oldest loss within a class of losses first (e.g., you should apply a 1991 non-capital loss before a 1992 non-capital loss).

If you allocated all or part of the previous year's income to beneficiaries, the trust cannot use a **non-capital** loss carry-back to reduce the trust's income allocated to beneficiaries.

If **part** of the previous year's income remained in the trust, a **net** capital loss carry-back may reduce taxable capital gains designated to a beneficiary. The reduction to the beneficiary's income cannot be more than the designated taxable capital gains. The trust cannot reduce the amounts previously designated if it made a preferred beneficiary election for the net taxable capital gains, or if the trust document provides that it has to designate all of the income, including capital gains.

For more information, 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*.

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. You have to report the resulting income, gains, or losses on the trust's T3 return in the taxation year in which the dispositions are considered to have occurred. For more information about those specified dates, see "Deemed realization day" which follows this topic.

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 "Line 10, NISA Fund No. 2" on page 17 for more information.

Report the deemed realizations on Form T1055 to calculate the income, gain, or loss. Transfer the total amount from line 42 to line 11 of the T3 return. You do not need to report a trust's deemed realization on Form T1055 if the trust actually disposed of the property before the end of the taxation year, and if you reported the actual disposition elsewhere on the T3 return. There is one exception. If the trust is a post-1971 spousal trust, then you should report the deemed realization on Form T1055.

A trust is considered to have:

- disposed of its capital property, (including depreciable property of a prescribed class), land inventory and Canadian and foreign resource 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.

Note that in the case of the trust's depreciable property, the trust has to report both capital gains and recapture of capital cost allowance.

Form T1055 also has areas you can use to calculate:

- the adjustments to line 122 of Schedule 1, and line 1203 of Schedule 12;
- the amount of tax on which the trust can elect to defer payment; and
- the amount of taxable and deemed taxable capital gains to which you can apply the trust's net capital losses of other years.

For more information related to the deemed cost of the property, see Interpretation Bulletins 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*.

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. See the following table to help you determine the deemed realization day for your trust.

Description of trust	Deemed realization
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 (subsection 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 January 1, 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 December 31, 1990, but before 1993.	January 1, 1993.
Trust was created **after** June 17, 1971.	The day the beneficiary spouse dies.
Trust which has elected to defer the deemed realization day	The first day of the first taxation year following the death of the last exempt beneficiary
Other trusts	Either January 1, 1993, or 21 years after the day the trust was created, whichever date is later.

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 "Pre-1972 spousal trust" and "Post-1971 spousal trust" on page 9 for definitions.

Exemption from the 21-year rule 108(1)

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 employee 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; or
  - 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; and
- a trust in which all interests have been permanently vested, 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 elects under subsection 104(5.3) (Form T1015) to defer the deemed realization day; or
- a trust that elects on its return for the first taxation year ending after 1992 not to apply this provision.

This provision applies primarily to those commercial trusts that do not qualify as unit trusts.

Form T2223, *Election by a Trust to Defer Payment of Tax*

159(6.1), (7)

The trust can elect to pay its income tax arising from the deemed realization rule in up to 10 annual instalments. Interest at the prescribed rate will apply. Make the election on Form T2223, and file the form at the district taxation office no later than the day the T3 return is due for the taxation year the deemed realization occurs. To make security arrangements, contact the Collections Section of your district taxation office. For more information on this election, contact the General Enquiries service of your district taxation office.

Form T1015, *Election by a Trust to Defer the Deemed Realization Day*

104(5.3)

The trust can elect to postpone its 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. See the next topic if you need more information about an exempt beneficiary.

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

If the trust makes this election:

- The trust's 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 the exempt beneficiary dies on the last day of the trust's fiscal period, the trust's deemed realization day is postponed until the first taxation year following the year in which there is no beneficiary. For example, if the trust has a 1994 year-end of June 30, 1994 and the exempt beneficiary dies on June 30, 1994, the trust reports the deemed realization day in the taxation year beginning July 1, 1995.
- The trust can distribute trust property to beneficiaries who are not exempt beneficiaries during the time period described below. If it does, the proceeds to the trust and the cost to the non-exempt beneficiaries will be the fair market value of the property.
- The trust can transfer trust property to another trust during the time period described below. If it does, 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.

The time period:

- begins on the day after the original deemed realization day; and
- ends on the newly determined deemed realization day.

This election is:

- not available to a post-1971 spousal trust when the beneficiary spouse dies. However, it can be used to postpone a subsequent deemed realization occurring on the twenty-first anniversary of the beneficiary spouse's death;
- available to a pre-1972 spousal trust on either one of the following two dates:
  - on the first deemed realization that occurs on the later of the day the beneficiary spouse dies and January 1, 1993; or
  - on the deemed realization that occurs 21 years later; and
- available 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 must be a living beneficiary of the trust. He or she must also be one of the following individuals:

- the trust's "designated contributor";
- the designated contributor's:
  - spouse or former spouse; or
  - grandparent, parent, brother, sister, child, niece, or nephew;
- the grandparent, parent, brother, sister, child, niece, or nephew of the designated contributor's spouse or former spouse.

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 creation date of any trust that is transferring capital property, land inventory, or resource properties to the trust to which special rules apply. See "Transfer of trust property" on page 34.

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.
- An individual will not be considered 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 will not be considered 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 an inter vivos or a testamentary 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 you make an election on Form T1015 — the individual whose death created the trust; and
- 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 the individual designated on Form T1015.

Qualifying individual

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

- 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 previous paragraph, 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.

For the purposes of determining whether or not 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 individuals 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 appointment of an individual as a trustee of the trust, or an acquisition or a borrowing of property by any individual, 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 an election on Form T1015, 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; or
  - after December 20, 1991, if **both** the transferor and transferee are spousal trusts.

The transferee trust can file an election on Form T1015 to postpone the deemed realization day 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 an election on Form T1015)
Elect to defer deemed realization day, if trust has an exempt beneficiary (Form T1015)	no (yes, 21 years after beneficiary spouse dies)	yes (choice of two dates)	yes (only on first deemed realization)

Schedule 2
Calculation of Reserves on Dispositions of Capital Property
Lines 209 to 216

When you sell a trust's capital property, the trust will usually receive full payment at that time. However, you may have a situation where you sell a trust property and the trust only receives part of the selling price at that time. In the case where the trust receives the balance of the sales price over a number of years, you can claim a reserve for the trust.

Complete Schedule 2 if:

- you claimed a reserve on the disposition of the trust's capital property at the end of the previous year; or
- you are going to claim a reserve on the disposition of the trust's capital property at the end of the current taxation year.

You need the information from Schedule 2 to complete Schedules 1, 3, 6, and 12.

- Use Schedule 1 to calculate the reserve amount to include in, or exclude from, current-year capital gains.
- Use Schedules 3 and 6 to calculate capital gains eligible for the capital gains deduction. You need to identify reserves that apply to dispositions occurring after 1984, and reserves that apply to qualified farm property and qualified small business corporation shares.
- Use Schedule 12 to calculate minimum tax by separating 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)

Pending legislation — From tax changes announced on February 22, 1994

The February 22, 1994, budget eliminated the $100,000 capital gains exemption on capital property and eligible capital property. Under proposed subsection 104(21.2), effective for 1994 and subsequent taxation years, mutual fund trusts cannot designate capital gains eligible for deduction.

You have to complete Schedule 3 if the trust is:

- designating taxable capital gains to an individual beneficiary (T3 slip, box 21); or
- a spousal trust claiming a capital gains deduction on Schedule 5.

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

Lines 301 to 313
Part I. Trust's annual gains limit for 1994
110.6

Use Part I on the front of Schedule 3 to calculate the trust's annual gains limit for 1994.

Line 303
Non-eligible amounts
108(f)(f.1), 110.6(19), 131(6)(c.1)

Use the back of Schedule 3 to calculate the capital gains (or losses) reported in the current year that do not qualify for the capital gains deduction.

Pending legislation — From tax changes announced on February 22, 1994

The February 22, 1994, budget eliminated the $100,000 capital gains exemption on capital property and eligible capital property disposed of after February 22, 1994. Include dispositions of such property after February 22, 1994, in the area "Non-eligible capital gains from dispositions after February 22, 1994" on the back of Schedule 3 to calculate non-eligible amounts for line 303 of Schedule 3.

Generally, the part of any capital gains on real property applicable to the period after February 1992 does not qualify for the capital gains deduction. The part of any gains applicable to the period before March 1992 continues to qualify, but only if the property is disposed of before February 23, 1994, or an election is made to report a capital gain on property owned at the end of February 22, 1994. In this case, you have to calculate the amount that you should exclude from the trust's capital gains and losses to determine the trust's taxable capital gains eligible for the capital gains deduction.

In this calculation, you should include non-qualifying real property that is:

- real estate; and
- 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;

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.

If the trust is reporting capital gains from information slips at line 110 of Schedule 1, use column F, line 303 to report the amounts not eligible for the capital gains deduction. For example, on a T3 slip the amount not eligible would be the difference between amounts shown in boxes 21 and 30. On a T5 slip, it would be the amount shown in box 21, the "non-eligible portion of box 18". Use amounts, as described, from the information slips for column F. Do not complete the calculation for "non-qualifying amount".

If the trust is reporting capital gains at line 3 to 6, or 9 of Form T1055, *Summary of Deemed Realizations,* and the deemed realization day was after February 22, 1994, include these gains under column F, line 303. Do not complete the calculation for "non-qualifying amount".

If the trust is reporting capital gains at lines 103 to 106, or 109 of Schedule 1 from dispositions after February 22, 1994, include these gains under column F of line 303. Do not complete the calculation for "non-qualifying amount".

Note

The full amount of the taxable capital gains from the following real properties continues to qualify for the capital gains deduction. Therefore, do not include the following properties in the calculation at this line:

- qualified farm property; and
- qualified small business corporation shares

Lines 320 to 328
Part II. Trust's cumulative gains limit for 1994
110.6

Use Part II on the front of Schedule 3 to calculate the trust's cumulative gains limit for 1994. Use the chart under the next heading to calculate the taxable portion of reserves from pre-1985 dispositions.

Line 323
Adjusted cumulative loss amount reported after 1984 and before 1994

You will have to make an adjustment at line 323 if the trust claimed net capital losses of other years in a taxation year after 1984 and before 1992 if, in the same year, the trust reported a pre-1985 reserve. You have to reduce the net capital losses of other years claimed in a year by the taxable portion of the pre-1985 reserve reported in the year. The following chart page will help you calculate this adjustment for line B on Schedule 3. Use this chart to calculate the adjusted cumulative gains limit only if you did not claim a net capital loss from other years in a prior year. Otherwise use the cumulative gains limit from Schedule 3, line 328.

If you have never calculated this adjustment, then for 1994 you have to calculate the adjustment for all the years from 1985 to 1991 .

Calculation for line B on Schedule 3

Year	(1) Net capital losses of other years claimed in the year	(2) Reserves related to capital dispositions before 1985	(3)	(4) Taxable portion of reserve (Column 2 — Column 3)	(5) Lesser of amounts in Column 1 and Column 4 (if negative, enter zero)
1985	$	$	× 1/2 =	$	$
1986	$	$	× 1/2 =	$	$
1987	$	$	× 1/2 =	$	$
1988	$	$	× 2/3 =	$	$
1989	$	$	× 2/3 =	$	$
1990	$	$	× 3/4 =	$	$
1991	$	$	× 3/4 =	$	$
Total					$

Transfer the total of Column 5 to Schedule 3, Part II, line B at line 323.

(1) Net capital losses of other years claimed in the year — from Form T672, Part I, line 6 for 1985 and 1986; from line 523 on Schedule 5B for 1987; from line 536 on Schedule 5B for 1988 and 1989; and from line 307 on Schedule 3 for 1990 and 1991. Also include any capital loss carry-backs claimed in each year.

(2) Reserves related to capital dispositions before 1985 — from Schedule 2, prior year reserve for 1985; from line 511 on Schedule 5 for 1986; from Schedule 5A, 1985 and prior net reserve (line 513 minus line 514) for 1987; from line 575 on Schedule 5C for 1988 and 1989; or from line 215 on Schedule 2 for 1990 and 1991.

Lines 330 to 334
Part III. Trust's eligible taxable capital gains for 1994

108(1)

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 **minus** the total amounts of eligible taxable capital gains designated in previous years (1985 to 1993 inclusive).

You will need the eligible taxable capital gains amount that you figured out at line 334 for Schedules 5 and 9. This is the amount of the trust's taxable capital gain that qualifies for the capital gains deduction for each beneficiary who is an individual (line 930 on Schedule 9), or for a capital gains deduction for a spousal trust (line 501 on Schedule 5).

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

Cumulative net investment loss (CNIL) is the trust's total investment expenses for years ending after 1987, minus the trust's total investment income for years ending after 1987. For purposes of the CNIL, investment income and expenses refers to income and expenses related to property including dividends, interest, and rental income.

Complete Schedule 4 for 1994 if the trust is:

- reporting any investment income or claiming any investment expenses;
- designating taxable capital gains to an individual beneficiary (to determine the amount that is eligible for the beneficiary's capital gains deduction); or
- a spousal trust claiming a capital gains deduction on Schedule 5 (available only in the year the beneficiary spouse dies).

You should complete this schedule 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. This is because the balance in the trust's CNIL account is a cumulative total, and you need the total of the trust's investment expenses and income for 1988 and following years to calculate eligible taxable capital gains on Schedule 3.

Use the CNIL that you calculated at line 433 to reduce the trust's cumulative gains limit. This may reduce the trust's eligible taxable capital gain for the capital gains deduction.

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 that the beneficiary spouse died and the trust is subject to the deemed realization rule. See "Form T1055, *Summary of Deemed Realizations*" on page 31.

Complete Part B to calculate the spousal trust's capital gains deduction. If the beneficiary spouse died in 1993, use the "Rev. 93" version of Schedule 5.

Please note if the trust is a spousal trust claiming a capital gains deduction, you also have to complete Schedule 3, *Calculation of a Trust's Eligible Taxable Capital Gains*, and include it with the trust's T3 return. If the trust is a spousal trust claiming a capital gains deduction on capital property that is qualified small business corporation shares or qualified farm property, you also have to complete Schedule 6, *Calculation of Total Taxable Capital Gains Attributable to Qualified Farm Property or Qualified Small Business Corporation Shares.*

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

Pending legislation — From tax changes announced on February 22, 1994

The February 22, 1994, budget eliminated the $100,000 capital gains exemption on capital property and eligible capital property disposed of after February, 22 1994. Under proposed subsection 110.6(19), a personal trust can elect to report a capital gain on such property owned by a trust at the end of February 22, 1994. If a spousal trust makes this election and the beneficiary spouse has died in the year, because the election is on property which qualifies for the capital gains deduction as at February 22, 1994, the trust's eligible capital gains on which it can claim a capital gains deduction will be increased.

For more information see Chapter 6, *Election by a Personal Trust to Report a Capital Gain*, on page 67.

A pre-1972 spousal trust can also claim the capital gains deduction when reporting a deemed realization on either January 1, 1993, or the day the beneficiary spouse dies, whichever is later. The trust can claim this deduction if the trustee does not file an election on Form T1015 to defer the deemed realization day. See "Form T1015, *Election by a Trust to Defer the Deemed Realization Day*" on page 33 for more information.

Note

Under pending legislation, if the beneficiary spouse of a pre-1972 spousal trust died after February 22, 1994, the trust cannot claim a capital deduction, as described in the previous paragraph.

Before completing this schedule, you have to 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 (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)

The trust may have disposed of qualified farm property or qualified small business corporation shares. If it did, and it is designating eligible taxable capital gains to an individual beneficiary (or claiming the capital gains deduction on Schedule 5), you have to calculate the amounts attributable to these properties. This will help the beneficiary (or spousal trust) take advantage of the higher capital gains deduction on these properties.

If the trust is designating eligible taxable capital gains to a beneficiary, you will need the information from this schedule 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
- **eligible taxable capital gains** from qualified farm property or qualified small business corporation shares (Footnotes for line 930 and box 30.)

For more information, see the explanations under Schedule 9, "Footnotes for line 921 (and box 21)" on page 45, and "Footnotes for line 930 (and box 30)" on page 47.

If the trust is a spousal trust claiming the capital gains deduction you will need the information on this schedule to calculate the trust's capital gains deduction on Schedule 5.

Schedule 7
Statement of Pension Income Allocations or Designations
104(27)

Complete this schedule if a testamentary trust is allocating pension income to beneficiaries and you want to designate that income so the beneficiaries can have favourable treatment on their T1 return for that pension income. You need these amounts to complete Schedule 9.

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

Line 922 — Report at line 922 lump-sum pension income designated to a beneficiary spouse if it qualifies for a paragraph 60(j) transfer to a registered retirement savings plan or to a registered pension plan.

Line 926 — Report all other pension income at line 926.

Line 931 — Report at line 931 the amounts designated to a beneficiary spouse that qualify as eligible pension income for the pension income non-refundable tax credit under subsection 118(3).

Line 936-1 — Report at footnote line 936-1 the amounts eligible for acquiring an annuity, as described in subclause 60(l)(v)(B.1)(II).

The total of the pension amounts you entered at lines 922 and 926 cannot be more than the lesser of:

- the pension income you reported at line 02 of the T3 return; and
- the income before allocations or designations at line 46 of the T3 return.

For the purpose of designating pension income to a beneficiary, a spouse includes a common-law spouse. For more information, see the definition of **spouse** on page 13.

For more information, please see the income tax guide called *RRSPs and Other Registered Plans for Retirement*.

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), 260(5)

Attach a schedule listing the actual amount of dividends the trust received from taxable Canadian corporations. These amounts are shown in box 23 on the T3 slips, and in box 10 on the T5 slips issued to the trust. On this list, you should include actual and deemed taxable dividends. You should not include non-taxable dividends (as explained under line 815) or capital gains dividends that you report at line 110 on Schedule 1. Include all dividends credited through such institutions as banks, trust companies, and brokers, even if you did not receive a T3 or T5 slip. If the trust paid amounts in the year under a securities lending arrangement, deduct those amounts 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 trust's tax payable. If the trust designated the taxable dividends to individual beneficiaries, the tax payable by the individual beneficiaries may be reduced.

Line 808
Foreign investment income

At line 808 report investment income from sources outside Canada in Canadian dollars. To convert foreign funds to Canadian dollars, use the foreign exchange rate in effect at the time the trust received the income. 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 you should report at this line are bond interest, bank interest, mortgage interest, and other dividends (including dividends under a dividend rental arrangement as defined in subsection 248(1) of the *Income Tax Act*). Do not include dividends the trust received from taxable Canadian corporations you reported at line 805, capital gains dividends you reported at line 110 of Schedule 1, and non-taxable dividends discussed under the next heading. Report interest credited on tax refunds at this line for the year it is received. We consider interest credited to the trust's account by a financial institution to have been received by the trust. For more information on the method of reporting interest and other investment income, see the *General Income Tax Guide*, and Interpretation Bulletin IT-396, *Interest Income*.

Non-taxable dividends received by a trust
83(1), 83(2), 53(2), 104(20)

An example of a non-taxable dividend occurs when a Canadian private corporation pays a tax-free dividend from its capital dividend account. If the trust receives a dividend of this type, do **not** include it in the trust's income.

Note 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 calculating a capital gain (or loss) if the trust disposes of the shares later.

If the trust is paying out non-taxable dividends to its beneficiaries, you should inform the beneficiaries that they should not include these dividends when they calculate their income. You also have to file a statement with the T3 return containing the following information:

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

Line 820
Carrying charges

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

If the trust incurred carrying charges on both Canadian and foreign investment income, you have to apportion them on a reasonable basis, and attach the calculation to the T3 return.

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

Lines 821 to 824
Part B — Calculation of gross-up amount of dividends retained by the trust

On this part of Schedule 8, you have to calculate the gross-up amount of actual dividends from taxable Canadian corporations that you included at line 805 and that the trust retained. The gross-up rate for dividends received in the 1994 taxation year is 25% of the dividends received.

Line 821
Total dividends reported before applying expenses

At line 821, enter the actual amount of dividends from taxable Canadian corporations you reported at line 805.

Line 822
Dividends designated to beneficiaries
104(19)

Enter at line 822 the amount of net dividends (after related expenses) you **designated** to beneficiaries at line 923 of Schedule 9. If you have allocated dividends by including them in the amount at line 926 of Schedule 9, the dividends are not designated. Therefore, do not include them at line 822.

Line 824
Gross-up amount of dividends retained or NOT designated by the trust
82(1)(b)

Multiply the amount at line 823 by 25% to calculate the amount you have to enter at line 824. You have to apply the gross-up rate to actual dividends (that have been retained in the trust, or allocated but not designated to beneficiaries) before you deduct related expenses.

Enter this amount:

- at line 49 on page 2 of the T3 return; and
- in the space at the beginning of the line 1111 calculation on Schedule 11; or
- at line 1217 on Schedule 12, if applicable.

Claim the carrying charges that relate to dividends at 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 also have to complete T3 Supplementary slips and a T3 Summary form if you are allocating or designating income to resident beneficiaries, or NR4 Supplementary slips and an NR4 Summary form if you are allocating income to non-resident beneficiaries.

Allocations or designations
104(6), (13), (19), (20), (21), (22), (27), (27.1), (29)

In this guide and on the T3 return:

- allocated and allocation are used to refer to amounts deducted from the income of the trust at line 47, and that are 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
  - the trust makes a preferred beneficiary election to include the trust income in the beneficiary's income.
- designated and designation are used when we are applying some special provision of the *Income Tax Act*. Generally, amounts designated to a beneficiary retain their identity and you have to report them in the appropriate box on the T3 slip. This allows 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 the trust could not designate any amounts to the beneficiary, you would need only one income box on the T3 slip. This is because you would have to show all the allocated income on Schedule 9, line 926, and report it in box 26 on the T3 slip.

You may choose to designate the following income amounts to a beneficiary:

- net taxable capital gains;
- certain lump-sum pension benefits;
- dividends from taxable Canadian corporations;
- foreign business income;

Revenue Canada | Revenu Canada

94-115(E)

ELECTION TO REPORT A CAPITAL GAIN ON PROPERTY OWNED BY A PERSONAL TRUST AT THE END OF FEBRUARY 22, 1994

- A personal trust uses this form to elect to report a capital gain on capital property or eligible capital property owned at the end of February 22, 1994
- *File one completed election form on or before March 31, 1995 if the taxation year of the trust ends* in 1994, or March 31, 1996 if the trust's taxation year ends in 1995.
- Attach one completed election form to the *Trust Income Tax and Information Return* (T3) which includes February 22, 1994 , or send the election form to the appropriate taxation centre listed in the T3 Guide.
- If you are filing the election after the T3 Return, attach amended schedules (3,4, 5, and 9 as applicable), an amended preferred beneficiary election, and amended T3 *Supplementary* and *Summary* forms.

For departmental use

Name of trust	Account number T _ _ - _ _ _ _ _ _ - _ _
Name of trustee, executor, or administrator	
Mailing address of trustee, executor, or administrator	Telephone number ( )
	Postal code
Taxation year that includes February 22, 1994	from 19 Year Month Day to 19 Year Month Day

Step 1 – Property for which an election is being made

Property Number	Description of property	Date of acquisition	Fair market value at the end of February 22, 1994
1			
2			
3			
4			
5			

Attach a list if you need more space.

Step 2 - *Calculation of elected capital gain*

Part A - Flow-through entities

Property number	Column 1 Adjusted cost base (ACB)	Column 2 Designated proceeds of disposition	Column 3 Capital gain before reduction (Column 2 - column 1)	Column 4 Reduction for non-qualifying real property	Column 5 Election capital gain (Column 3 - column 4)

Total elected capital gain on flow-through entities (1)

Attach a list if you need more space.

Amount enclosed (see Step 4 on reverse) $

Part B - Other capital properties and eligible capital property

Property number	Column 1 Adjusted cost base (ACB)	Column 2 Designated proceeds of disposition	Column 3 Capital gain before reduction (Column 2 - column 1)	Column 4 Reduction for non-qualifying real property	Column 5 Elected capital gain (Column 3 - column 4)
				Total elected capital gain on other capital properties and eligible capital property	(2)

Attach a list if you need more space.

Step 3 - Calculation of total capital gain

Total elected capital gains - flow-through entities (box 1) ______ **A**

Total elected capital gains - other capital properties and eligible capital property (box 2) ______ **B**

Total elected capital gains (Add lines A and B) (1112) ______ **C** •

Enter amount from line C at line 111, Schedule 1, *Summary of Dispositions of Capital Property*

Step 4 - Penalty for late-filed or amended elections

We will accept a late-filed or amended election that increases the elected capital gain on a property **only if** you estimate and pay a penalty. Use the following chart to calculate the penalty for a late-filed or amended election.

Late-filed election: Elected taxable capital gain (3/4 x line C) ______ **D**

Amended election: Amended taxable capital gain (3/4 x gains* per Column 5) ______ **E**

Original taxable capital gain (3/4 x gain per column 5 on original Form 94-115 on properties for which elected gain is increased) ______ **F**

Increase to taxable capital gain (line E minus line F) ______ **G**

***Calculate the penalty only on the increased gain on properties for which you are increasing the elected capital gain.**

Number of months from filing due date to filing of late or amended election. (Include the month that you actually file the late or amended election. ______ **H**

Multiply the amount at line D or line G by the number at line H. ______ **I**

Divide the amount at line I by 300. (74545) ______ **J** •

The penalty for filing a late or amended election is the amount at line J. Attach a cheque or money order, payable to the Receiver General. Make sure the cheque or money order shows the trust's name and trust account number, and specify Form 94-115.

Step 5 - Election and Certification

I, ______________________________

hereby elect to have the provisions of subsection 110.6(19) of the *Income Tax Act* apply in respect of each property specified above, and certify that the information given on this election is, true, correct and complete in every respect.

Date	Signature of trustee, executor, or administrator	Telephone

This reflects proposed law that had not been passed at the time of printing.

Printed in Canada

(Ce formulaire existe aussi en français.)

- foreign non-business income;
- pension income eligible for paragraph 60(l) transfer;
- retiring allowance eligible for paragraph 60(j.1) transfer;
- eligible pension income.

You have to designate all insurance segregated fund capital losses to a beneficiary:

Use Schedule 9, Part B, and boxes 30 to 42 of the T3 slip to provide additional information regarding designated amounts. This includes non-income amounts such as foreign income tax paid, Part XII.2 tax credit, income which can be transferred to tax deferral plans, and other tax credits that are flowed through to the beneficiary.

For more information, see the following Interpretation Bulletins (IT):

- IT-342, *Trusts — Income Payable to Beneficiaries;*
- 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.*

Exceptions and limitations for income allocations

Trust income has to be allocated to beneficiaries or taxed in the trust according to the provisions of the will or trust document, subject to the following exceptions and limitations.

- 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;
  - 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; or
  - the deemed payment from NISA Fund No. 2 that arose on the death of a beneficiary spouse.
- The trust cannot deduct income that came from payments out of **NISA Fund No. 2** (except a testamentary spousal trust if this income was received while the beneficiary spouse was alive).
- 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.
- **Certain inter vivos trusts created since 1934**, may have 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.

  These trusts cannot deduct any income, including taxable capital gains and allowable capital losses from that property. We consider that income to belong to the contributor during the contributor's lifetime while a resident of Canada. For more information about these certain inter vivos trusts and the attribution rules, see Interpretation Bulletin IT-369, *Attribution of Trust Income to Settlor*.
- A trust cannot **allocate or designate net capital losses and non-capital losses** to beneficiaries of a trust.

  There are two exceptions to this rule:
  - Capital losses of an insurer's related segregated fund trust — Report these capital losses in box 37 on the beneficiary's T3 slip.
  - Losses of revocable trusts and from blind trusts — Report these losses in brackets in the appropriate box on a separate T3 slip for the beneficiary. Clearly indicate the type of loss on the T3 slip in the footnote space.
- **Designated income to be taxed in trust**
  104(13.1), 104(13.2), 108(1)

  A trust that is resident in Canada throughout the year and not exempt from tax can choose to retain income in the trust rather than report it in the hands of the beneficiaries. This applies to income paid or payable to beneficiaries.
  - 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 stating on the T3 return for the year that a designation is being made under subsection 104(13.1). You can make the statement on the T3 return by ticking the "yes" box of question 9 on page 1 of the return.

    You have to make this designation for each beneficiary. This designation reduces a beneficiary's income from the trust by that beneficiary's proportionate share of the income that was chosen to be kept in the trust. We describe the proportionate share formula under the next heading in this chapter.
  - You can choose to make a similar **designation under subsection 104(13.2)** if taxable capital gains are included in the income to be kept in the trust. This will reduce the beneficiary's taxable capital gains by the beneficiary's proportionate share of taxable capital gains retained in the trust.

    In a year when a trust has a taxable capital gain, the trust may have a non-capital loss carry-forward. By using subsection 104(13.2) provisions, you can choose not to deduct the full amount the trust is entitled to under subsection 104(6). This allows the non-capital loss carry-forward to absorb the current year taxable capital gain.
  - Generally, amounts that you designate under subsections 104(13.1) and 104(13.2) will reduce the adjusted cost base (ACB) 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 using subsections 104(13.1) or 104(13.2) to designate 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 you are designating and the amounts you are designating for each beneficiary.

You have to make the trust's designation under subsections 104(13.1) and 104(13.2) when you file the T3 return. After you file a T3 return, you cannot make, change, or withdraw a designation under subsections 104(13.1) and 104(13.2).

For more information, see 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*.

Proportionate share formulas

Use the following formulas to calculate designations under subsections 104(13.1) and 104(13.2). You have to apply this formula to each beneficiary.

Subsection 104(13.1)

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

where

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

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

C - D = the total amount designated and retained in the trust

Subsection 104(13.2)

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

where

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 its two beneficiaries, X and Y. The net income of $8,000, which you calculated using trust rules, did not change when you applied income tax rules. The trustee and beneficiaries 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.

Determine the amount designated under subsection 104(13.1) for beneficiary X by the following:

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

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

Therefore, the amount designated under subsection 104(13.1) for beneficiary X is $4,000.

The calculation for beneficiary Y would be the same.

Example 2

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

Determine the amount designated under subsection 104(13.2) for beneficiary X by the following:

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

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

Therefore, the amount designated under subsection 104(13.2) for beneficiary X is $1,000.

The calculation for beneficiary Y would be the same.

Example 3

Continuing with Example 2, assume that $3,000 income was retained in the trust.

Determine the amount designated under subsection 104(13.1) for beneficiary X by the following:

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

$$\frac{\$4,000}{\$8,000} \times (8,000 - 5,000 - 2,000) = \$500.$$

Therefore, the amount designated under subsection 104(13.1) for beneficiary X is $500.

The calculation for beneficiary Y would be the same.

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
Total income allocations or designations to beneficiaries
Lines 921 to 928

Answer all three questions, and attach any necessary statements. For more information about income attributed to the transferor, see "Transfers and loans of property" on page 11.

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 the following section for more information, especially column III, covering the "preferred beneficiary election." Any amounts allocated or designated to a beneficiary at lines 921 to 926 are deducted from the trust's income. You have to include these amounts in the beneficiary's income in boxes 21 to 26 on the T3 slip.

If you deducted expenses at line 41 of the T3 return, you have to apply them against specific types of income before you can allocate or designate income to beneficiaries. You have to apportion expenses that relate to more than one source of income to the applicable sources of income. When you have allocated or designated all the income to beneficiaries, we will allow an alternative apportionment of expenses to provide the maximum flow-through to a beneficiary of the dividend tax credit. For more information, and the conditions that the trust has to meet before we can accept this alternative apportionment of expenses, see Interpretation Bulletin IT-524, *Trusts — Flow-Through of Taxable Dividends to a Beneficiary — After 1987.*

Income paid or payable to resident beneficiaries
Column I, lines 921 to 926
Boxes 21 to 26
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 these beneficiaries. If the income is **allocated**, but no amounts are **designated**, you should enter the allocated amount at line 926 (and in box 26 of the T3 slip). If you are designating the income, enter the amounts at the appropriate lines and in the appropriate boxes of the T3 slip. In addition, use Part B and the corresponding boxes of the T3 slip for other amounts you are designating to the beneficiaries.

For more information 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 926
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** to identify the source of the income kept in the trust. You cannot designate income such as taxable capital gains, and taxable dividends from taxable Canadian corporations to a non-resident beneficiary. Therefore, the different types of income lose their identity when you allocate them to the non-resident beneficiaries. Report the total of the amounts in column II as **Estate or trust income** on an NR4 slip, not on a T3 slip.

Most amounts paid or payable to a non-resident beneficiary are subject to a Part XIII withholding tax. See "Non-resident beneficiaries" on page 51. Transfer the total of column II to line 1020 of Schedule 10, Part XIII, "Non-resident withholding tax."

If you are distributing income to non-resident beneficiaries, the trust may also be subject to Part XII.2 tax. For information on Part XII.2 tax, see "Schedule 10, Calculation of Part XII.2 tax" on page 48.

By preferred beneficiary election — Resident beneficiaries
Column III, lines 921, and 923 to 926
Box 21, and boxes 23 to 26
104(14), 108(1), Regulation 2800

You and a preferred beneficiary can jointly elect to have the trust's accumulating income taxed in the hands of the preferred beneficiary in 1994. Use column III to allocate or designate that elected accumulating income. We suggest that you complete a separate T3 slip for this elective income.

We list some types of trust income that do not qualify as accumulating income under the heading "Preferred beneficiary election." For more information, see "Preferred beneficiary" and "Preferred beneficiary election" under the next two headings.

You can designate the following types of trust income to retain their identity 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); and
- foreign non-business income (line 925).

You have to make the designations on the trust's return for the year in which you include the relevant amounts in the trust's income. If you do not designate elective income in one of the above categories, you should include it in the beneficiary's hands as other income (line 926).

Preferred beneficiary 108(1)

A preferred beneficiary of a trust is 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 a child, grandchild, or great grandchild of the settlor of the trust.

For the definition of **settlor**, see page 13.

Preferred beneficiary election 104(12), (14), and (15), 108(1), Regulation 2800

A trust and a preferred beneficiary can jointly elect, in the year, to include in a preferred beneficiary's income for that year, all or part of the trust's accumulating income for the year. The trust can then deduct from its income the amount elected to be included in the preferred beneficiary's income for that year. The amount elected has to be stated in the election and must not be more than the preferred beneficiary's share of the accumulating income. If you make this joint election, the preferred beneficiary has to include the elected income in his or her income in the year you make the election.

Accumulating income in the case of a spousal trust (both pre-1972 and post-1971) does not include:

- the income (taxable capital gains minus 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);
- income from these sources for which any trust has previously filed a subsection 104(5.3) election. For more information see the heading "Deemed realization (disposition) — 21-year rule" on page 31; and
- amounts paid or deemed to have been paid from NISA Fund No. 2 (there is one exception — a preferred beneficiary election could include NISA Fund No. 2 amounts paid to a testamentary spousal trust while the beneficiary spouse was still alive).

Trusts that are excluded from the 21-year rule cannot make a preferred beneficiary election. These trusts are listed under "Exemption from the 21-year rule" on page 32.

You can make a preferred beneficiary election for a taxation year by filing the following documents:

- a statement making the election for the year, stating the part of the income on which you are making the election, and signed by both the preferred beneficiary (or guardian) and the trustee with the authority to make the election; and
- a statement, signed by the trustee, showing the computation of the preferred beneficiary's share in the accumulating income of the trust for the year, along with information about the provisions of the trust and its administration, as necessary.
- You have to file the election, with the T3 return or separately, no later than 90 days after the end of the trust's taxation year for which the election was made. Please be aware that for a preferred beneficiary election to be valid, you have to file it on time. If you file the election late, we will tax the accumulating income in the trust. Usually, once you make an election and we assess the return, you cannot rescind the election. You have to follow these filing requirements each year that you make a preferred beneficiary election.

In some circumstances (usually those beyond your control), 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, see Information Circular 92-1, *Guidelines for Accepting Late, Amended or Revoked Elections*. Also see 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).

If you are making a preferred beneficiary election, see 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)

You may allocate all or a portion of a Canadian resident trust's **net taxable capital gains** to a beneficiary. If you designate this amount, we consider the amount to be the beneficiary's taxable capital gain.

A trust's net taxable capital gain is the amount by which the total of the trust's taxable capital gains for a taxation year **is more than** the total of:

- the trust's allowable capital losses for the taxation year; **and**
- net capital losses of other years you deducted in calculating the trust's taxable income for the taxation year.

Use the following chart to calculate the amount of net taxable capital gains you can designate.

Net taxable capital gains

Taxable capital gains minus allowable capital losses (from Schedule 1, line 122 and Form T1055, line 25)	$	1
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 (Line 1 minus line 2)	$	3
(H2) Net taxable capital gains designated in the current year		
Amount from line 3, above*	$	4
Amounts from line 01 on page 2 of the T3 return minus any expenses the trust incurred to earn that income, and from Form T1055, line 25*	$	5
Amount from T3 return, page 2, line 46	$	6
Net taxable capital gains designated in current year (this amount cannot be more than the least of lines 4, 5, and 6.)	$	9

Transfer the designated amount to line 921 on Schedule 9. Do not include taxable capital gains on eligible capital property at line 921. Report those amounts at line 926.

* Subtract any amount you 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 carry-forward according to subsection 104(13.2), you have to reduce the net taxable capital gain that you designate to a beneficiary accordingly. See "Designated income to be taxed in trust" on page 41.

When you prepare the T3 slip, the amount you put in box 21 is four-thirds of the beneficiary's share of the **net taxable capital gains** amount at line 921.

If you complete line 921, you also have to complete line 930 if you are allocating capital gains eligible for deduction.

Pending legislation — From tax changes announced on February 22, 1994

The February 22, 1994, budget eliminated the $100,000 capital gains exemption on capital property and eligible capital property disposed of after February 22, 1994. Under proposed subsection 110.6(19), personal trusts can elect to report a capital gain on such property owned at the end of February 22, 1994. The elected gain forms part of the taxable capital gains allocated at line 921 to the extent that the elected gain became payable in the year or is part of the accumulating income on which a preferred beneficiary election is made. For more information on the election see Chapter 6, *Election by a Personal Trust to Report a Capital Gain,* on page 67.

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, you have to make another calculation to determine the amount at line 921 (and in box 21) to attribute 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 line 9 of the chart above — amount you entered at line 921 on Schedule 9)

D = Amounts for qualified farm property and qualified small business corporation shares.

The amount shown as a footnote for line 921 has to be equal to or greater than the amount calculated as a footnote for line 930.

Enter the greater of the line 930 footnote amount and the total of the amounts determined at D for:

- qualified farm property at line 921-1 of Schedule 9 (footnotes for box 21); and
- qualified small business corporation shares at line 921-2 of Schedule 9 (footnotes for box 21).

Show this amount as a footnote to box 21 on the beneficiary's T3 slip. For instructions on completing the T3 slip, see "Completing the T3 Supplementary slip" on page 71.

Line 922
Lump-sum pension benefits

104(27), 104(27.1), 60(j)

If the trust is a testamentary trust, you can designate certain pension and superannuation benefits, and certain amounts received from a deferred profit sharing plan to have been received by a particular beneficiary and not by

the trust. Enter at 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 at line 926 all income distributed to beneficiaries that is not shown at lines 921 to 925. This includes business income, rental income, farming income, fishing income, interest income, eligible pension income, death benefits, retiring allowances, and dividends under a dividend rental arrangement,

Also include at this line deemed taxable capital gains from the disposition of eligible capital property before February 23, 1994 (reported at lines 120 and 121 of Schedule 1). As well, show the breakdown of these amounts in the footnotes for box 26.

A testamentary trust may be able to designate a lump-sum payment out of a registered pension plan to a beneficiary to acquire an annuity under subclause 60(l)(v)(B.1)(II). Include these amounts at line 926 and show the amount eligible for transfer at line 936-1. The lump-sum payment is eligible if that beneficiary is a child or grandchild of the deceased person, and was under 18 when the deceased person died. See "Testamentary trust" on page 6.

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."

A communal organization should show at line 926-3, the total amount of business income (farming, fishing, and other business) allocated to a member of a communal organization. Business income that the member received from the communal organization is considered self-employment earnings for the purposes of determining Canada Pension Plan contributions.

Note

After 1993, block-averaging provisions no longer apply. Trusts allocating farming or fishing income in 1994 should include that income at line 926.

Line 928
Total

The total of lines 921 to 926 is the income you allocated or designated to the beneficiaries. The amount cannot exceed "trust income before allocations/designations" at line 46, on page 2 of the T3 return.

Part B
Summary of other amounts designated to beneficiaries
Lines 930 to 944

Complete this area only when there are designations such as dividends from taxable Canadian corporations, foreign taxes paid for credit purposes, and pension income or retiring allowances eligible for transfer.

Line 930
Taxable capital gains eligible for deduction

104(21.2)

If you make the designation at line 921 (except mutual fund trusts), you also have to designate a portion of the trust's **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.

Pending legislation — From tax changes announced on February 22, 1994

The February 22, 1994, budget eliminated the $100,000 capital gains exemption on capital property and eligible capital property. Under proposed subsection 104(21.2), enter the lesser of the amounts you determined at lines 921 and 334 at line 930. Enter the same amount in box 30 of the beneficiary's T3 slip.

Note

The change to determining the amount at line 930 is effective February 23, 1994. If the trust has a 1994 taxation year which ended before February 23, 1994, use the instructions at "Line 930" of the 1993 T3 Guide to calculate the amount you have to enter at line 930.

If there is more than one beneficiary, you have to apportion each beneficiary's share of the trust's eligible taxable capital gains using the following formula:

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

where

E = Beneficiary's share of total amount designated (from line 921)

F = Total amount designated at line 921

G = Lesser of:

- amount designated at line 921; and
- eligible taxable capital gains from line 334 on Schedule 3

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

On the T3 slip in box 30, enter four-thirds of the amount that you determined in H. The total of all amounts that you determined in H equals the amount you calculated above for line 930.

Note

Keep a copy of these calculations and of Schedule 3 with your records. You will need this information to calculate the cumulative gains limit whenever you make a designation of the trust's eligible taxable capital gains 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, you have to make another calculation to determine the amount at line 930 (and in box 30) to attribute 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.

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

where

H = Particular beneficiary's share of trust's eligible taxable capital gains

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

K = Total of positive amounts from Schedule 6, line 615, column 4

L = Amounts for qualified farm property and qualified small business corporation shares (you have to show this amount as a footnote to box 30 on the particular beneficiary's T3 slip)-for instructions on completing the T3 slip, see "Completing the T3 Supplementary slip" on page 61.

You have to apply this formula for each beneficiary to calculate that beneficiary's share of the trust's eligible taxable capital gains from qualified farm property, qualified small business corporation shares, and other property.

Add all the amounts that you determined in L for qualified farm property, and enter the total at line 930-1 of Schedule 9 (footnotes for box 30).

Add all the amounts that you calculated in L for qualified small business corporation shares, and enter the total at line 930-2 of Schedule 9 (footnotes for box 30).

If line 615 includes 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)

Enter at line 931 those amounts from Schedule 7 that are eligible for the pension income non-refundable tax credit under subsection 118(3). 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" on page 39 for more information.

Line 934
Foreign non-business income tax paid
104(22)(b), 126(1)(a)

If you are designating a foreign tax credit to a beneficiary, you have to submit the trust's valid receipt or information slip from the foreign country. This is necessary to support your claim that the trust paid foreign non-business income tax, or that it was withheld from foreign non-business income the trust earned.

The proportion of foreign taxes you designate to a beneficiary has to be in proportion to the foreign income you designate to that beneficiary. You have to convert any foreign taxes paid in foreign currency to Canadian funds.

For more information, see Interpretation Bulletins IT-270, *Foreign Tax Credit*, IT-201, *Foreign Tax Credit — Trusts and Beneficiaries*, and the "Federal foreign tax credit" section on page 53.

Line 935
Eligible death benefits
104(28), 248(1)

A testamentary trust may receive a payment that was paid as a result of the employee's death and in recognition of the employee's service in an office or employment. Such a payment is usually from the deceased person's employer or from a trust fund established by the employer. This payment may qualify as a **death benefit** as defined by subsection 248(1) of the *Income Tax Act*.

When you allocate the death benefit payment to a beneficiary according to the provisions of the will, the beneficiary may be able to exclude up to $10,000 of the payment from income. We provide box 35 on the T3 slip so you can inform the beneficiary of the amount in box 26 that is a death benefit eligible for this exemption. If you allocate the death benefit to more than one beneficiary, you should apportion the eligible amount among those beneficiaries. The beneficiaries can use this information to calculate the taxable portion that they have to report on their T1 returns.

If you deduct the eligible death benefit from the trust income, then only the taxable portion flows out to the beneficiary. You have to ensure that you report only the taxable portion of the death benefit at line 19 on page 2 of the T3 return. Also complete only box 26 (not box 35) on the T3 slip. See "Line 19" on page 18.

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, and you should not include them in box 35 on the T3 slip.

Line 936
Miscellaneous
60(j.1), 60(l), 143(2)

Enter at line 936-1 designated "Pension income eligible for paragraph 60(l) transfer". Enter at line 936-2 "Retiring

allowance eligible for paragraph 60(j.1) transfer". Enter charitable donations designated to the beneficiaries of a communal organization at line 936-3.

Line 937
Insurance segregated fund capital losses
138.1

Enter at line 937 the designated portion of a net allowable capital loss from a disposition of property by an insurance segregated fund.

Pending legislation —From tax changes announced on February 22, 1994

The February 22, 1994, budget eliminated the $100,000 capital gains exemption on capital property and eligible capital property disposed of after February 22, 1994. Insurance segregated fund capital losses are used in the calculation of beneficiaries' "annual gains limits". This calculation is used to determine the available capital gains deductions for qualified farm property and qualified small business corporation shares, which remain unchanged.

Enter the total amounts for:

- insurance segregated fund capital losses after February 22, 1994, at line 937-1 of Schedule 9 (footnotes for box 37); and
- insurance segregated fund capital losses before February 23, 1994, at line 937-2 of Schedule 9 (footnotes for box 37).

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

Enter the amount from line 1010 of Schedule 10. You can designate the Part XII.2 tax credit only to those resident beneficiaries to whom you allocated or designated income at line 928 in column I of Schedule 9.

Lines 940 and 941
Investment tax credit (ITC) designated
127(7), 143(1)

Only testamentary trusts and deemed inter vivos trusts for communal organizations can designate the investment tax credit to their beneficiaries.

Use Form T2038(IND), *Investment Tax Credit (Individuals)*, to calculate the amount of the investment cost or expenditure, and the investment tax credit available. Complete Section 1 to calculate these amounts. You will need the eligible amounts the trust invested to acquire property and the eligible expenditures for this part of the form. Note that you have to reduce the trust's investment tax credit by any amount you allocate to beneficiaries under subsection 127(7). You can get Form T2038(IND) from your income tax office.

At line 940 of Schedule 9, enter the beneficiaries' share of the trust's investment cost or expenditures. You need this amount to determine the amount of the investment tax credit you can designate to each beneficiary. You should report each beneficiary's share in box 40, "Investment eligible for ITC", of the beneficiary's T3 slip.

At line 941 of Schedule 9, enter the amount of the trust's investment tax credit from Form T2038(IND) that you designated to a beneficiary, and did not deduct at line 1120 of the trust's Schedule 11.

Insert the applicable code number from Form T2038(IND) in the footnote space on the T3 slip. See "Completing the T3 Supplementary slip" on page 60 for more information.

Note

You have to complete a T3 slip for all amounts you allocate or designate to a **resident** beneficiary, including a preferred beneficiary who elects to be taxed on accumulating income of the trust. See Chapter 5 on page 60 for more information on completing the T3 Supplementary and T3 Summary forms.

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

We do not provide a separate tax return for Part XII.2 tax. Instead, use Schedule 10 to calculate Part XII.2 tax. You have to pay this tax no later than 90 days after the end of the trust's taxation year.

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

- a testamentary trust;
- a mutual fund trust;
- a trust that was exempt from Part I tax under subsection 149(1);
- a trust governed by a deferred income plan (described in subsection 108(1));
- a communal organization; or
- a non-resident trust.

Part XII.2 tax applies when a trust:

- has **specified income** as described under the next heading;
- has a **designated beneficiary** as described after the next heading; and
- allocates or designates any of its income.

Specified income 210.2(2)

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 the trust acquired 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*, we use the term **specified income** 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 trust resident in Canada (other than a testamentary trust, a mutual fund trust, or trust exempt from tax under subsection 149(1)) whose beneficiaries include a designated beneficiary;
- a partnership whose members include a designated beneficiary; or
- 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.

Note

There are two exceptions to this rule. A person exempt from Part I tax is not a designated beneficiary if:

- after either October 1, 1987, and the creation of the trust, whichever is later, the beneficiary continuously held the interest; **or**
- 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 directly or indirectly from its beneficiary or the beneficiary's spouse or former spouse.

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

- you will generally **not** complete box 38 on the T3 slip for a designated beneficiary who is a Canadian resident; and
- before you calculate Part XIII non-resident withholding tax, you have to reduce the income payable to a non-resident beneficiary by the non-resident's share of the Part XII.2 tax (see the comments under "Line 1009" on page 50).

Eligible beneficiary

The term **eligible beneficiary** identifies a beneficiary who is not a designated beneficiary as described above. An eligible beneficiary is generally a resident beneficiary, and is entitled to a refundable Part XII.2 tax credit in proportion to the share of allocated or designated trust income. You have to include an amount equal to the Part XII.2 tax credit 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 represents the specified income of a trust. If the amount at line 1006 is negative, Part XII.2 tax does not apply.

Line 1007
Amount allocated or designated to beneficiaries

At lines A and B in the calculation area for line 1007, enter the amounts from line 928, columns I and II of Schedule 9. Use line D to subtract the subsection 105(1) taxable benefit amount you reported at line 44 of the T3 return.

Part XII.2 tax does not apply to the "value of other benefits to recipients" you reported at line 44 of the T3 return, or to the total amount in column III of Schedule 9 for accumulating income under a preferred beneficiary election.

In effect, the total at 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 you distribute to resident and non-resident beneficiaries to be included in their income;
- the subsection 104(30) deduction from trust income for the tax the trust paid 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

Withhold the Part XII.2 tax from income you distribute to the beneficiaries and remit it to the Receiver General for Canada. This way, all beneficiaries effectively pay a share of the tax in proportion to the income you originally allocate or designate to them, and eligible beneficiaries will receive refundable tax credits for their share of the tax.

Part XII.2 tax ensures 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 if it had been earned directly by the designated beneficiaries.

Line 1008
Part XII.2 tax

Multiply the lesser of the amounts at line 1006 or 1007 by 36%. This is the amount of Part XII.2 tax payable by the trust. Transfer this amount to line 83 on page 4 of the T3 return.

Note

Under subsection 210.2(1) of the *Income Tax Act*, you would usually have to calculate the least of three amounts to determine the amount you have to use for the Part XII.2 tax calculation.

Paragraph 210.2(1)(a) refers to the specified income at line 1006. Use this amount 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.

Paragraph 210.2(1)(c) refers to an amount that is 100/64 of the income you allocated or designated to beneficiaries (subsection 104(6) deduction), before calculating Part XII.2 tax. This grossed-up amount is equal to the amount at line 1007.

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

At line 1009, calculate the amount of Part XII.2 tax you can attribute to designated beneficiaries. Transfer the amount from line 1009 to 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 slip for each eligible 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 eligible beneficiary's share of the amount from line 1007, which is the trust income you 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 — Adam, a resident of Canada who is an **eligible** beneficiary, and 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 1994 represents:

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

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

- **enter** $1,000 at lines 1001 and 1006, since there are no other sources of specified income (the $400 interest is not specified income);
- **enter** $1,400 at line 1007, since this is the total amount from columns I and II on Schedule 9, line 928;
- **enter** the lesser of lines 1006 and 1007 ($1,000) in the first blank space at line 1008;
- **calculate** 36% of $1,000, and enter the result ($360) in the second blank space at 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 (divide $700 by $1,400 and multiply by $360), and enter the result ($180) at line 1009, and in Part B at line 1026; and
- **calculate** the amount of refundable Part XII.2 tax credit at line 1010 by subtracting line 1009 from line 1008. Enter the result ($180) on the T3 slip in box 38.

Adam received $520, but he will include $700 ($520 + $180) in his income for the year. This amount, which you will enter on the T3 slip in box 26, is the 50% portion of the trust income that you were to distribute to him according to the terms of the trust agreement. On his T1 return for 1994, he will claim a refundable Part XII.2 tax credit of $180.

Meg received $520. This amount, which you will enter on the NR4 Supplementary, is the 50% portion of the trust income that you were to distribute to her according to the terms of the trust agreement. On Schedule 10, 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 you made at line 1021, you will either add the line 1021 amount to or subtract it from the amount at line 1020.

Line 1025
Amounts not subject to Part XIII tax — Other

One example of an adjustment you have to enter on this line is amounts you 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

At this line deduct the amount of Part XII.2 tax you can attribute to designated beneficiaries.

You have to deduct the Part XII.2 tax here because the total amount in column II on Schedule 9, line 928, includes income under subsection 104(31) (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 by referring to the NR4 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 tax treaty provides a lower rate. 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 any balance due by following the steps on Schedule 10, Part B. You should send any balance due to us, accompanied by Form NR-76, *Non-Resident Tax Statement of Account*, which is a combined remittance statement and receipt. If you are remitting Part XIII tax for the first time, include with the payment the trusts name and address, the type of payment (Part XIII tax), and the month during which you withheld the tax. When we receive the payment, we will issue a Form NR-76 receipt, the bottom portion of which you can tear off and use for remitting future payments.

You also have to complete NR4 Summary, *Return of Amounts Paid or Credited to Non-Residents of Canada* , and NR4 Supplementary, *Statement of Amounts Paid or Credited to Non-Residents of Canada*. These forms are available from your income tax office.

Completing the NR4 return

The *Guide for Filing the New NR4 Return* outlines procedures for reporting amounts the trust paid or credited to non-residents of Canada, and explains how to complete the NR4 return. You can get this guide from the International Taxation Office at 2540 Lancaster Road, Ottawa, ON K1A 1A8 or from your income tax office.

NR4 Summary

This form summarizes amounts paid or credited, or that we consider paid or credited, to non-residents and represents the total of amounts you reported on the NR4 Supplementary slip. You do not have to withhold or report amounts on a NR4 Supplementary slip when the total of amounts the trust 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, line 1028. Total non-resident tax withheld on the NR4 Summary should agree with the non-resident tax payable on Schedule 10, line 1029.

NR4 Supplementary

Enter the year for which you are completing this form. Report as estate and trust income (NR4 income code 11/box 16) the total trust income you 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). Therefore, you have to total and report them as "estate or trust income" on the NR4 Supplementary slip.

Distributing the NR4 return
Regulation 202(8)

No later than 90 days after the end of the trust's taxation year, you have to distribute the NR4 Summary and Supplementary forms as follows:

- Send copies 1 and 2 of the NR4 Supplementary **and** copies 1, 2, and 3 of the NR4 Summary to:

  Information Processing
  Ottawa Taxation Centre
  875 Heron Road
  Ottawa ON K1A 1G9
- Send copies 3 and 4 of the NR4 Supplementary to the beneficiary's last known address.
- Keep copy 5 of the NR4 Supplementary **and** copy 4 of the NR4 Summary with the trust records.

For more information on non-resident income tax, see Information Circulars IC 76-12, *Applicable Rate of Part XIII Tax on Amounts Paid or Credited to Persons in Treaty Countries*, and its Special Release, IC 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 1994 rates of federal income tax for individuals.

The individual rates also apply to an inter vivos trust (other than a mutual fund trust) that:

- was established before June 18, 1971;
- was resident in Canada on June 18, 1971, and without interruption thereafter until the end of 1994;
- did not carry on any active business in 1994;
- has not received any property by way of gift since June 18, 1971; **and**
- after June 18, 1971, has not 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 called **grandfathered inter vivos trusts.** For more information, 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.

Line 1109
Tax adjustments

Income Tax Application Rules (ITAR) 40

Use this line when you add to the trust's tax such items as the reduced tax that applies to lump-sum payments under ITAR 40. You do not have to enter an amount on this line. Instead, specify ITAR 40 at this line and at line 02 on page 2 of the T3 return, and we will calculate your tax adjustment. Attach to the T3 return any information slips the trust received.

Line 1111
Federal dividend tax credit

121

At line 1111, enter the amount of the federal dividend tax credit that the trust can claim on dividends the trust received in the 1994 taxation year.

The dividend tax credit is 66.67% (2/3) of the gross-up amount you calculated at line 824 of Schedule 8.

Line 1112
Charitable donations

118.1 or 104(6)

Testamentary trust

- If the donation is a one-time payment provided for in the deceased person's will, do not claim it on the T3 return. Instead, the donation has to be claimed on the deceased person'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 (e.g., donations will continue to be made according to the terms of the will), treat the charity as an income beneficiary and deduct the donation as an allocation of trust income at line 47 on page 2 of the T3 return. You also have to report it at the appropriate line of Schedule 9.
- If the will provides that a donation can be made at the discretion of the trustee, you can choose to treat the charity as an income beneficiary and deduct the amount at line 47 of the T3 return, or claim a non-refundable tax credit at line 1112 of Schedule 11.

When you are claiming a donation on the T3 return, either as an income allocation or for a non-refundable tax credit, you should state in the T3 return whether the donation is a one-time or periodic payment as 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 terms of the trust agreement, deduct the donation as an allocation of trust income at line 47 on page 2 of the T3 return, and include it at the appropriate line of Schedule 9.
- In all other cases, calculate a non-refundable tax credit for the donation at line 1112 on Schedule 11.

Include with the T3 return an official receipt for all donation claims. There are three classes of donations:

- charitable donations (please see the *General Income Tax Guide* for types of organizations that are included in this class);
- gifts to Canada, a province, or territory; and
- gifts of cultural property (attach both the official receipt from the institution and the T871 certificate the Canadian Cultural Property Export Review Board issues).

Maximum claim and carry-over

When you use the non-refundable tax credit method, the maximum amount the trust can claim in a year for charitable donations is limited to 20% of the trust's net income you entered at line 50 on page 4 of the T3 return. The 20% limit does not apply to gifts to Canada or of cultural property. You can choose to claim any portion of the trust's total donations up to the maximum limit. A trust can carry any unused portion 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 1987 to 1993 taxation years, and does not have to pay minimum tax for the 1994 taxation year, you can deduct part or all of that amount from 1994 taxes payable. We provide the following table 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.

Note

You can carry-over minimum tax from the seven previous taxation years. You have to apply the oldest carry-over available first (e.g., you have to apply any carry-over from 1987 before the carry-over from 1988).

Calculating minimum tax carry-over

Minimum tax carry-over from previous years which can be applied in 1994 Minimum tax carry-over balance at the end of 1993 (from 1993 Schedule 12, line 1269, or from this table for 1993, line (j))			$ ______ a
Minimum tax carry-over from 1986 not used before 1994			$ ______ b
Minimum tax carry-over available (line a minus b)			$ ______ c
Tax payable immediately before minimum tax carry-over (1994 Schedule 11, line 1110)		$ ______ d	
Federal dividend tax credit	$ ______ e		
Charitable donations and gifts	$ ______ f		
Subtotal (add lines (e) and (f))	$ ______ ▶	$ ______ g	
Line (d) minus line (g)		$ ______ h	
Minimum amount (from 1994 Schedule 12, line 1232)		$ ______ i	
Maximum amount of minimum tax carry-over which you can apply in 1994 Line (h) minus line (i)		$ ______ j	
Minimum tax carry-over from previous year, applied in 1994 Claim an amount not exceeding the lesser of (c) or (j)			$ ______ k
Transfer this amount to Schedule 11, line 1113.			
Minimum tax carry-over available for 1995 Line (c) minus line (k)			$ ______ l

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 pay this tax instead of provincial tax. Business income the trust earned in a province or territory through a permanent establishment in Canada, however, is subject to provincial tax instead of this surtax.

If you need more help with the above calculations, get Form T2203, *Calculation of Tax in Respect of Multiple Jurisdictions*, and Form T691A, *Minimum Tax Supplement — Multiple Jurisdictions*, from your income tax office.

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

This credit is for foreign income or profit taxes the trust paid to a foreign government on income it earned outside Canada.

In general, the foreign tax credit you can claim for each foreign country is the lesser of the following two amounts:

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

You have to make a separate calculation for each foreign country for which you claim a foreign tax credit. You also have to make a separate calculation for business income taxes and non-business income taxes the trust paid to each foreign country unless the total tax paid to all foreign countries is $200 or less.

The total of all business income taxes and non-business income taxes paid to foreign countries may be more than the total amount allowed as a foreign tax credit. In this case, you may be able to claim the excess, or a portion thereof, at line 1125 of Schedule 11 as an ''Additional federal foreign tax credit'' when you calculate the individual surtax on Schedule 11. For details of all these calculations, get Form T2209, *Calculation of Federal Foreign Tax Credit*.

An excess amount of foreign business income tax is commonly called unclaimed foreign tax credit. A trust can

carry unclaimed foreign business income taxes back three years and forward seven years. Attach a note to the T3 return explaining the amount of unclaimed foreign tax credits you are applying to other years.

The trust cannot carry forward an excess of any foreign non-business income tax. You can claim some or all of the excess as:

- a provincial foreign tax credit on Form T2036, *Calculation of Provincial Foreign Tax Credit*;
- a deduction at line 40, on page 2 of the T3 return; or
- an additional foreign tax deduction against the individual surtax otherwise payable.

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

When you calculate the foreign tax credit, put all amounts in Canadian currency. For more information, see Interpretation Bulletins IT-270, *Foreign Tax Credit*, and IT-201, *Foreign Tax Credit — Trust and Beneficiaries*.

When you complete Form T2209, please note that the calculation of the credit is based only on amounts the trust retains. Do not include any amounts relating to the designation of foreign income and foreign tax credits to the beneficiaries. Transfer the amount from line H of completed Form T2209 to line 1118 of Schedule 11.

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 on the following page, and enter the credit at line 1119. If total federal political contributions are more than $1,150, enter $500 at line 1119. Attach proof of payment to the T3 return. This has to 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 (transfer this amount to line C of line 1119)	$	
Allowable credit:		
75% of first $100 of total federal political contributions	$	(a)
50% of next $450 of total federal political contributions	$	(b)
33 1/3% of total federal political contributions over $550	$	(c)
Total allowable credit — (add lines (a) to (c) — **not** to exceed $500)	$	

Transfer the allowable credit amount to line 1119 of Schedule 11.

For more information, 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 can earn investment tax credits on eligible properties and expenditures that are listed on Form T2038(IND), *Investment Tax Credit (Individuals)*. A trust can earn investment tax credits, 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:

- the trust earned an investment tax credit (ITC) in 1994;
- the trust is carrying forward a credit;
- the trust is carrying back a credit to previous years; or
- the trust is claiming a refundable ITC in 1994 (at line 88 on page 4 of the T3 return).

You have to reduce the cost of eligible properties or expenditures by a portion of the credit deducted or refunded. The reduction takes place in the year after:

- the trust claims the credit; or
- the trust acquired the asset:
  - if it made the claim or refund in the year of acquisition; or
  - if it applied the claim to a previous year.

For example, the capital cost of property is reduced in 1995 by any ITC which the trust earned in 1994, and which is claimed or refunded on the 1994 return, or applied back to a previous year.

Only testamentary trusts or communal organizations can designate an ITC to beneficiaries. The part of the ITC, which is designated according to the terms and conditions of the trust agreement or by choice of the trustee at line 941 of Schedule 9 cannot be included when you calculate the trust's ITC for the taxation year. Reduce the cost of the qualified property acquisitions or expenditures of the trust, by the amount of any ITC that you designated to the beneficiaries, in the taxation year of the designation.

If the trust made eligible expenditures in different regions, and the ITC rates differ, prepare a separate T3 slip for each designation to beneficiaries.

For more information about ITCs, see the income tax guides called *Business and Professional Income*, *Farming Income*, or *Fishing Income*. You can also get Information Circular 78-4, *Investment Tax Credit Rates*, and its Special Release, from your income tax office.

Line 1121
Other credits

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

Note

Minimum tax — For situations in which the trust may have to pay minimum tax, you should complete Schedule 12 instead of continuing Schedule 11. See "Schedule 12, Calculation of Minimum Tax" on page 55.

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 a 3% individual surtax, calculated on the following amounts:

- 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.
- 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*.

If the above basic federal tax amount is more than $12,500, the trust has to pay an additional 5% surtax on the **amount** that is more than $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 the trust's individual surtax by the unused portion of these credits.

Line 1125
Additional federal foreign tax credit

180.1(1.1)

Use line 1125 to subtract the additional federal foreign tax credit (FFTC) that you calculated on Form T2209, *Calculation of Federal Foreign Tax Credit*.

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

- If the amount at line (i) in Part II of Schedule 12 is more than the amount at line (E) in Part I of Form T2209, then no additional federal foreign tax credit is available to reduce the individual surtax payable. In this case, enter zero at line 1125 of Schedule 11 or, if the trust is subject to minimum tax, at line 1251 of Schedule 12.
- If an additional federal foreign tax credit is available to reduce the individual surtax payable, transfer the amount from line (P) of Form T2209, to line 1125 of Schedule 11 or, if the trust is subject to minimum tax, to line 1251 of Schedule 12.

Line 1127
Additional investment tax credit

180.1(1.2)

Use line 1127 to deduct the additional investment tax credit from the individual surtax payable. You can calculate the amount on Form T2038(IND), *Investment Tax Credit (Individuals)*, section II.

You can reduce the individual surtax by the lower of the following two amounts:

- the unused investment tax credit you determined at line E of Form T2038(IND); and
  - for years beginning before 1994, three-quarters of the amount by which the individual surtax otherwise payable which you calculated at line 1126 of Schedule 11, or at line 1252 of Schedule 12, **is more than** the additional federal foreign tax credit you calculated at line 1125, or,
  - for years beginning after 1993, the amount by which the individual surtax payable which you calculated at line 1126 of schedule 11, or at line 1252 of Schedule 12, **is more than** the additional federal foreign tax credit you calculated at line 1125.

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.

Use Form T2203, *Calculation of Tax in Respect of Multiple Jurisdictions*, 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 spousal trust for the taxation year in which it reports 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) is more than the regular tax payable (Schedule 12, line 1237). Any of the following conditions may attract minimum tax for 1994 if the trust:

- reports taxable dividends (on page 2, line 03);
- reports taxable capital gains (on page 2, line 01);
- makes an election on pension benefits under ITAR 40 (on page 2, line 02 and on Schedule 11, line 1109);
- claims a loss resulting from, or increased by, resource expenditures, or resource and depletion allowances on resource properties (on page 2, line 06 or 19); or
- claims a loss resulting from, or increased by, capital cost allowance on certified films or videotapes (on page 2, line 06).

Note

Losses cannot be created or increased by claiming capital cost allowance on multiple unit residential buildings for years after 1993.

Net adjusted taxable income for minimum tax

Use Part I of Schedule 12 to calculate the net adjusted taxable income for minimum tax. You use Part I of Schedule 12 to recalculate 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.

You also **deduct** the following amounts:

- a basic exemption of up to $40,000 allowed to testamentary trusts and to grandfathered inter vivos trusts (see "Line 1101" on page 51);
- the gross-up amount of dividends retained by the trust; and
- the non-deductible portion of business investment loss (one-third of the allowable business investment loss at line 25 on page 2 of the T3 return).

Obligation to pay minimum tax

Use Part III of Schedule 12 to determine if the trust has to pay minimum tax. Under this part, you have to apply a tax rate of 17% to the net adjusted taxable income amount. If the result is positive, subtract the tax credits for charitable donations, gifts, and special foreign tax, then compare the result to the regular federal tax payable. If this result is more than zero, the trust has to pay minimum tax.

Line 1202
Taxable capital gains allocated or designated to beneficiaries

At this line include the amount of taxable capital gains you designated to beneficiaries at line 921 of Schedule 9.

Line 1203
Non-taxable portion of capital gains retained in the trust

127.52(1)(d)

This amount would usually be equal to one-third of the taxable capital gains retained in the trust after designation or allocation of capital gains to beneficiaries. Do not include taxable capital gains the trust realized on mortgage foreclosures and conditional sales repossessions.

You have to make an adjustment if you reported a capital gains reserve (on Schedule 1, line 117) that relates to a disposition occurring before 1986 calculate the 1994 taxable capital gains on Schedule 1.

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

Adjusted line 1203

Calculation of non-taxable portion of capital gains you reported and retained in the trust for 1994 (to exclude capital gain reserves relating to dispositions of capital property before 1986)

Item				
Taxable capital gains: An amount equal to 1/3 of line 119, Schedule 1			$	(a)
Reserve (1985 and previous dispositions) 1/4 of amounts in column 2, lines 210 and 215, Schedule 2			$	(b)
Add lines (a) and (b)			$	(c)
Reserve (1985 and previous dispositions) 1/4 of amounts in column 1, lines 210 and 215, Schedule 2	$	(d)		
Net taxable capital gains allocated or designated, Schedule 9, Part A (1/3 of line 921)	$	(e)		
Subtotal (add lines (d) and (e))	$		$	(f)
Total (line (c) minus line (f))			$	(g)

Transfer this amount to line 1203 of Schedule 12 (if the amount is negative, show it in brackets).

Line 1221
Taxable income

Enter at line 1221 the taxable income amount from line 56 on page 4 of the T3 return. If the amount you calculated at line 56 is zero or less than zero, enter the actual amount at this line.

Line 1222
Non-capital losses of other years used in current year

127.52(1)(i)(i)

If the trust claimed non-capital losses of other years at line 51 on page 4 of the T3 return, you may have to reduce the non-capital losses for minimum tax purposes if the loss occurred in a taxation year beginning after 1985. This reduction is any portion of the non-capital losses attributable to:

- capital cost allowance you claimed on:
  - multiple unit residential buildings; or
  - films certified by the Canadian Film and Videotape Certification office;
- resource expenditures; or
- resource and depletion allowances.

Add the portion back at line 1222.

Line 1224
Net capital losses of other years used in current year

127.52(1)(i)(ii)

You have to adjust income for minimum tax purposes to reflect the non-deductible portion of capital losses from capital property dispositions occurring in taxation years beginning after 1985 that you used in the current year. This will effectively reflect 100% of those capital losses.

Enter at line 1224 one-third of the net capital losses of other taxation years beginning after 1985 that you claimed in the current year at line 52 on page 4 of the T3 return. Do not include capital losses on mortgage foreclosures and conditional sales repossessions.

Line 1226
Basic exemption — Minimum tax

122(2), 127.53

We allow a basic exemption of $40,000 to testamentary trusts. We also allow a basic exemption of $40,000 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 "Line 1101" on page 51.

You have to allocate the $40,000 basic exemption among the trusts if more than one qualifying trust is formed from contributions by the same individual.

Example

The following 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, you have to attach to each of the trust returns an agreement signed jointly by each trustee showing the allocation of the $40,000 exemption. See Question 1 on page 1 of the T3 return and "Question 1" on page 15 for details.

If we send you a written notice asking for such an agreement, and you do not send the agreement 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 "Lines 1124 to 1128" on page 55 for information.

Line 1256
Refundable Quebec abatement

See "Line 1130" on page 55 for details.

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

Use Part VI of Schedule 12 to calculate the amount of any additional minimum tax payable by a trust that you can carry over to a future year. You may be able to deduct this amount from the trust's regular tax liability in subsequent years (Schedule 11, line 1113). A carry-forward is permitted for a period of seven years.

Schedules 13 and 14
Provincial or Territorial Tax Payable

Canadian resident trusts

A trust is liable for provincial or territorial tax, at the rate that applies 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
- 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 Territory.

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

A trust resident in Canada may have earned income during the year from a business:

- with 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.

In these cases, you have to allocate the trust's income to determine the liability for:

- provincial or territorial income tax; or
- federal surtax for income the trust earned outside of Canada.

You should allocate income from a business for each province, territory, or foreign country in which the business had a permanent establishment during the taxation year. In general, you should allocate all other income to the province or territory in which the trust resided at the end of the taxation year. Make this calculation on Form T2203, *Calculation of Tax in Respect of Multiple Jurisdictions*, and Form T691A, *Minimum Tax Supplement — Multiple Jurisdictions*. You can get these forms from your income tax office.

A trust resident in a province (other than Quebec) or territory on the last day of its taxation year may have a federal foreign tax credit that is less than the tax the trust paid to a foreign country. In this case, you should use Form T2036, *Calculation of Provincial Foreign Tax Credit* to calculate any provincial or territorial foreign tax credit to which the trust may be entitled. You can apply this credit against provincial or territorial income tax, whatever the case may be.

Non-resident trusts

A non-resident trust that carries on a business through a permanent establishment in a province or territory is subject to provincial or territorial tax on the business income it earned in that province or territory.

A non-resident trust may carry on a business in Canada without a permanent establishment in Canada. In this case, it 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 because of an income tax treaty.

Provincial basic income tax rate and surtax rate changes

Provincial basic tax rates changed in 1994 for New Brunswick and the Yukon Territory.

Provincial surtax rates changed in 1994 for Nova Scotia, Ontario, and British Columbia.

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.

You have to attach proof of payment in the form of an official receipt signed by the chief financial officer of the registered party, constituency association, or candidate to the T3 return.

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

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

Calculate the allowable credit for **Alberta** as follows:

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

Calculate the allowable credit for the **Northwest Territories** as follows:

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

* Enter these amounts at the appropriate lines of the provincial or territorial schedule.

Line 1345
Ontario tax reduction

If the trust has to pay minimum tax (from Schedule 12), it is not entitled to claim an Ontario tax reduction at line 1345 of Schedule 13.

Line 1403
Net income tax (Manitoba)

Generally, you will apply the 2% tax at line 1403 to an amount that is the trust's net income that you determined at line 50 on page 2 of the T3 return. If you deduct the foreign income that is exempt from tax because of a tax convention at line 54, then you should deduct the same amount from line 50, "Net income," before you calculate the tax at line 1403.

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 1410
Manitoba tax reduction

If the trust is subject to Manitoba income tax but was not resident in Manitoba on the last day of the trust's taxation year, you can claim only that portion of the "Manitoba tax reduction" which reflects the portion of the trust's total income the trust earned in Manitoba.

You can claim a maximum amount at line 1410 equal to:

$$\$430 \times \frac{\text{trust's income earned in Manitoba}}{\text{trust's total income for the year}}$$

Line 1421
Saskatchewan flat tax

Before you apply the 2% flat tax, reduce the net income amount from line 50 by any deduction for foreign income exempt from tax because of a tax convention, claimed at line 54 on page 2 of the T3 return.

Lines 1430 to 1432
Saskatchewan tax incentives and tax rebate

The Saskatchewan Tax Incentives Program, which provided for different tax credits to Saskatchewan residents who invested in targeted Saskatchewan industries, was repealed effective December 31, 1989. The trust can carry forward the unused portions of the Saskatchewan livestock investment tax credit and the Saskatchewan livestock facilities tax credit and apply them against net Saskatchewan tax payable for seven taxation years. Claim these unused tax credits at line 1430 of Schedule 14.

If the trust has a Saskatchewan Labour-Sponsored Venture Capital Tax Credit, you can claim it at this line. Attach a copy of Form T2C(Sask).

If the trust is a communal organization and makes the appropriate election, you can designate the Saskatchewan livestock investment tax credit and the Saskatchewan livestock facilities tax credit to members (beneficiaries) of the communal organization (lines 943 and 944 of Schedule 9).

Line 1444
Alberta royalty tax rebate

If, during 1994, 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)*, which is available from your income tax office. Attach the completed form to the T3 return. Enter the Alberta royalty tax rebate which you calculated on Form T79 at line 1444 of Schedule 14.

Note

Claim the Alberta royalty credit (formerly the Alberta royalty tax credit) by filing the appropriate forms with:

Alberta Treasury, Tax and Revenue Administration
9811-109 Street
Edmonton AB T5K 2L5

You can get forms and a guide by contacting Tax and Revenue Administration, at the above address, or at:

500, 620-7 Avenue, S.W.
Calgary AB T2P 0Y8

You can also phone:

Edmonton (403) 427-0712
Calgary (403) 297-5200
Alberta 1-800-363-6296

Direct all technical inquiries about the Alberta royalty credit to Interpretations and Appeals at the Edmonton address, or 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*. Enter the rebate you determined on Form T81 at line 1462 of Schedule 14.

Chapter 5 — T3 Supplementary and T3 Summary

You have to complete a T3 slip for each resident beneficiary to whom the trust allocated or designated amounts in the year. However, if the total amount allocated in the year to a beneficiary consisted solely of interest income and was less than $100, then you do not have to complete a T3 slip for that beneficiary. If there is a preferred beneficiary election, and income is also paid to the same beneficiary, complete two separate T3 slips. Complete one T3 slip for the elected income, and a second T3 slip for all other allocated or designated income.

Use the T3 Summary to record the totals of the amounts you reported on all the related T3 slips. You have to complete a T3 Summary even if you prepare only one T3 slip.

Magnetic media filing

If you are a large-return filer and are now using computerized systems to generate the T3 slips, we would like you to file them on magnetic media, such as magnetic tape, cartridge, or diskette. Magnetic media filing is available to inter vivos trusts, and to testamentary trusts with fiscal year ends of December 31.

If you are a magnetic media filer you have to send us a tape or diskette before the filing deadline. You do not have to send the paper copy of the T3 Summary or the paper copy 1 of the T3 slips.

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 meet the specifications for the year of filing. For example, if the taxation year ends in 1994, use 1994 specifications.

For specifications and more information, see the booklet called *Computer Specifications for Data Filed on Magnetic Media — T3* (T4094). To obtain this booklet or to find out more about this method of filing, write to:

Magnetic Media Processing Unit
Ottawa Taxation Centre
875 Heron Road
Ottawa ON K1A 1A2

You can also telephone 1-800-665-5164.

Social insurance number (SIN)

- **Beneficiary (individual)** — Individuals have to give their SIN, when requested, to any person who has to prepare an information slip for them. If the individual does not have a SIN, he or she has to apply for one at any Canada Employment Centre no later than 15 days after the request. When the individual receives a SIN, he or she then has 15 days to give it to the person preparing the information slip.
- **Trustee (filer)** — Because you have to correctly report the SIN on the T3 slip, you have to get the SINs of individuals for whom you are preparing information slips. If you do not get the SIN, you should at least be able to prove that you have made a reasonable effort to get the SINs.

You should:

- advise (preferably in writing) existing clients, who have not yet given their SINs to you that they have to do so;
- advise them of the penalty (as described in the next paragraph) for failing to provide their SINs; and
- ask new clients to give their SINs whenever they open a new account or enter into a transaction that may require you to prepare an information slip for them.

A penalty of $100 per failure applies to both parties if they do not meet these requirements. The penalty does not apply if an individual has applied for but has not received the SIN when the return has to be filed.

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 239(2.3)

You cannot knowingly use, communicate, or allow an individual's SIN to be communicated, except for a purpose for which the individual provided it, as required or authorized by law, or with the written consent of the individual. Information return preparers as well as their employees, officers, or agents who use an individual's SIN for unauthorized purposes are guilty of an offence and are liable to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 12 months, or to both a fine and imprisonment.

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.

How to amend or replace T3 Supplementary slips

After you file the information returns, you may notice that you made an error when you prepared a T3 slip. If you did, you will need to prepare an amended T3 slip. When you amend a T3 slip, make sure to complete all the necessary boxes, even the information that was correct on the original T3 slip. Be sure to put report code 1 in box 16. Distribute and file the amended T3 slips the same way you did the original T3 slips. You also have to file an amended T3 Summary, T3 return, and Schedule 9 showing the changes. Clearly print the word "AMENDED" or "CANCELLED," whichever applies at the top of each form and send a covering letter to your taxation centre with copy 1 of the amended T3 slip explaining the error. For more information about the report codes, see the instructions for "Box 16" under "Completing the T3 Supplementary slip" which follows.

If you correct errors on the slips **before** you file them with us, simply prepare a new slip and delete any incorrect copies from the return. If you do not prepare a new T3 slip, initial any changes you make on the slip. In this case, do not change the report code on that slip.

If you issue a duplicate T3 slip to replace one the beneficiary lost, **do not** send us a copy. Enter report code 0 in box 16, and clearly print the word "DUPLICATE" at the bottom, or in the footnotes area, of the replacement slip. Give copies 2 and 3 to the beneficiary.

Completing the T3 Supplementary slip

Please type or print the information on the T3 slip.

Note that you have to prepare a separate T3 slip for a preferred beneficiary election. You also have to prepare a separate T3 slip if you designated to any beneficiary more than one type of tax credit that you have to report in box 42.

Box 12

Enter the beneficiary's **social insurance number (SIN)** in this box.

Box 14

If we have assigned an account number to the trust, enter the number in the space provided on the T3 slip. Otherwise, leave this box blank until we give you the number.

Box 16

Enter one of the following report codes in box 16. The code will help us determine if this is the original T3 slip you issued to the beneficiary, or if it is an amendment to the original T3 slip.

Enter	If this is
0	the original slip
1	an amended slip

If you use code 1, make sure you enter **all** the financial data in the necessary boxes, even the information that was correct on the original T3 slip. Change only the information in those boxes that you are amending.

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 a partnership
5	a government, a government enterprise, an international organization, or a deferred income plan that is exempt from tax

Trust year ending — Be sure to enter the trust's fiscal year end for which you are preparing the T3 slip. Use numbers to indicate the month. For example, if the fiscal year (taxation year) ends in November 1994, enter "1994" and "11" in the spaces provided for the year and month.

Information from Schedule 9

Schedule 9, lines 921 to 926, and 931, provides a summary of the income allocations or designations you have to enter in boxes 21 to 26 and 31. Schedule 9, lines 930 to 944, provides a summary of other designated amounts that you have to enter in boxes 30 and 32 to 42.

If tax was deducted on information slips that the trust received, you cannot use this tax to reduce the amount of income that you allocated to a beneficiary on the T3 slip. See "Line 86" on page 23 for more information.

*Box 21

Enter 4/3 times the beneficiary's designated portion of any net taxable capital gains from Schedule 9, line 921. Note that this amount does not include deemed taxable capital gains from eligible capital property under subparagraph 14(1)(a)(v) of the Act. Report these amounts in box 26.

Be sure to complete box 30, with the beneficiary's 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, you have to identify these amounts 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, add either "qualified farm property" or "qualified small business corporation shares", whichever applies. In addition, show the amounts you included in box 21 and box 30 that relate to the disposition of this property.

See "Line 921" and "Footnotes for line 921 (and box 21)" on page 44 for more information.

Pending legislation — From tax changes announced on February 22, 1994

The February 22, 1994, budget eliminated the $100,000 capital gains exemption on capital property and eligible capital property disposed of after February 22, 1994. Under proposed legislation personal trusts can elect to report a capital gain on such property owned at the end of February 22, 1994, and thereby allocate the capital gains and the capital gains eligible for deduction to beneficiaries. The elected gain is included in the net taxable capital gains at line 921 of Schedule 9 to the extent that the elected gain became payable in the year, or is part of the accumulating income on which a preferred beneficiary election is made. These amount are therefore included in boxes 21 and 30. For more information, see Chapter 6, *Election by a Personal Trust to Report a Capital Gain*, on page 67.

Box 22

Enter the beneficiary spouse's designated portion of lump-sum pension benefits from Schedule 9, line 922 that qualifies for paragraph 60(j) transfer to a registered pension plan or registered retirement savings plan. See "Schedule 7, Statement of Pension Income Allocations or Designations" on page 39 for more information.

Box 23

Enter the beneficiary's designated portion of the actual amount of taxable dividends the trust received from taxable Canadian corporations (TCC) from Schedule 9, line 923.

Box 24

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

Box 25

Enter the beneficiary's designated portion of the trust's gross foreign non-business income from Schedule 9, line 925.

***Box 26**

Enter the beneficiary's designated or allocated portion of all other income that you did not record in boxes 21 to 25.

Include in box 26 amounts such as:

- eligible death benefits;
- retiring allowances;
- pension income that is eligible for paragraph 60(l) transfer to an annuity for certain minors;
- deemed taxable capital gains from the disposition of eligible capital property;
- net rental income;
- net business income; and
- interest income.

If you include any deemed taxable capital gains from the disposition of eligible capital property in box 26, put an asterisk (*) beside the amount in box 26. In the footnote space below boxes 41 and 42, add a note showing:

- a description of the property for example,(e.g., "eligible capital property — qualified farm property" or "eligible capital property — other");
- the taxable amount; and
- the amount that qualifies for the capital gains deduction.

Pending legislation —From tax changes announced on February 22, 1994

The February 22, 1994, budget eliminated the $100,000 capital gains exemption on capital property and eligible capital property disposed of after February 22, 1994. Under proposed paragraph 14(1)(a), a gain realized on the disposition of eligible capital property, other than qualified farm property, for taxation years ending after February 22, 1994, is business income. For more information on calculating business income from the disposition of eligible capital property, see the income tax guide called *Business and Professional Income*. Provided the trust is a personal trust, and it operated a business which had eligible capital property at the end of February 22, 1994, the trust may still be able to elect to recognize a capital gain on the eligible capital property by filing Form 94-115, *Election to Report a Capital Gain on Property Owned by a Personal Trust at the End of February 22, 1994.*

If you include business income from a communal organization in box 26, put an asterisk (*) beside the amount in box 26 and in the footnote space below boxes 41 and 42, note "self employment earnings for CPP purposes" and the amount.

***Box 30**

If you put an amount in box 21, you have to put an amount (or "0") in box 30. Enter 4/3 times the beneficiary's designated portion of the trust's eligible taxable capital gains for the beneficiary's taxable capital gains deduction. Note that this amount does not include deemed taxable capital gains from eligible capital property. If box 21 includes gains from qualified farm property or qualified small business corporation shares, put an asterisk (*) in box 30. You have to prepare a footnote in the space below boxes 41 and 42. See "*Box 21" on page 61 for an explanation of the information that you have to include in the footnote.

See "Line 930" and "Footnotes for line 930 (and box 30)" on page 46 for more information.

Pending legislation — From tax changes announced on February 22, 1994

The February 22, 1994, budget eliminated the $100,000 capital gains exemption on capital property and eligible capital property disposed of after February 22, 1994. Do not include any amount from gains on dispositions after February 22, 1994, in box 30 unless the amount is from gains from qualified farm property or qualified small business corporation shares.

Box 31

Enter any pension amounts you transferred to the deceased's beneficiary spouse that qualify for the pension income non-refundable tax credit. Make sure you included these amounts in "Other income" in box 26.

Box 32

If you entered an amount in box 23, you have to enter an amount in box 32. Enter the beneficiary's designated portion of the taxable amount of dividends from a taxable Canadian corporation which is 5/4 times the actual amount you reported in box 23.

Box 33

If you entered an amount in box 24, you may have to enter an amount in box 33. Enter the beneficiary's designated portion of the foreign business income tax the trust paid that is based on the amount in box 24.

Box 34
If you entered an amount in box 25, you may have to enter an amount in box 34. Enter the beneficiary's designated portion of the foreign non-business income tax the trust paid that is based on the amount in box 25.

Box 35
Enter the beneficiary's designated portion of death benefits in box 35. See "Line 935" on page 47. You also have to include this amount in "Other income" in box 26.

Box 36
Enter the beneficiary's designated portion of the following amounts:

- pension income that is eligible for a paragraph 60(l) transfer to an annuity for certain minors (from line 1.b on Schedule 7 and included in box 26);
- a retiring allowance which qualifies for a paragraph 60(j.1) transfer to a registered pension plan or registered retirement savings plan (and included in box 26); and
- charitable donations of a communal organization.

Put an asterisk (*) beside the amount in box 36. In the footnote space below boxes 41 and 42, add a note giving the details of the amount and the type of transfer. If you are designating more than one of these items to a single beneficiary, prepare a separate T3 Supplementary for each item.

Box 37
Enter 4/3 times the beneficiary's designated portion of allowable capital losses from insurance segregated fund trusts from Schedule 9, line 937. In the footnote space below boxes 41 and 42, add a note showing the amount of the loss resulting from dispositions before February 23, 1994, and after February 22, 1994.

Box 38
Enter the beneficiary's designated portion of the Part XII.2 tax credit. See "Schedule 10, Calculation of Part XII.2 Tax" on page 48.

Box 39
If you entered an amount in boxes 23 and 32, you have to enter an amount in box 39. Calculate and enter the federal dividend tax credit. This credit amount is 13.33% of the taxable amount that you entered in box 32.

Box 40
Report the portion of the trust's investment (in eligible property acquisitions or eligible expenditures) that you used to calculate the beneficiary's share of investment tax credit (see "Lines 940 and 941" on page 48, and "Line 1120" on page 54).

Box 41
Report the beneficiary's designated portion of the investment tax credit. See the "Calculation of investment tax credit" area on Form T2038(IND), *Investment Tax Credit (Individuals)*. Insert the applicable code from Form T2038(IND) in the footnote space under box 41 (see "Lines 940 and 941" on page 48, and "Line 1120" on page 54).

Box 42
Use this box to report the beneficiary's designated portion of the following credits. Enter the type and designated portion of:

- Saskatchewan livestock investment tax credit (SLITC) from Schedule 9, line 943 (see "Lines 1430 to 1432" on page 59); and
- Saskatchewan livestock facilities tax credit (SLFTC) from Schedule 9, line 944 (see "Lines 1430 to 1432" on page 59).

If you designated more than one credit to a beneficiary, you have to prepare a separate T3 slip for each credit that you designated to that beneficiary. **These two credits are the only credits you can include in box 42.**

Footnote space
If you need more room to include 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 slip.

*Additional instructions for boxes 21, 26, and 30
You have to give the beneficiary additional instructions if you designate 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; or
- eligible capital property — other — box 26.

Box 21 — If an asterisk (*) appears in box 21, inform each beneficiary 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 has to report the amounts on T1 Schedule 3, at line 513 or line 516, whichever applies.

Box 26 — If an asterisk (*) appears in box 26 pertaining to a deemed capital gain from eligible capital property, inform each beneficiary that part of the amount in box 26 is a deemed taxable capital gain from either "eligible capital property — other" or "eligible capital property — qualified farm property." The beneficiary has to report the difference between the amount in this box and the amount in box 30 on line 032 in Part 3 of T1 Schedule 3.

Box 30 — If an asterisk (*) appears in box 30, inform each beneficiary that all or part of the amount in box 30 is considered to be a capital gain from qualified farm property or qualified small business corporation shares for purposes of the capital gains deduction.

Distributing the T3 Supplementary slip

Copy 1: Send this copy to us, **with** the T3 Summary and T3 return, no later than 90 days after the end of the trust's taxation year. For addresses and more information on filing requirements, see "General Information" on page 4.

Copies 2 and 3: Send these copies to the beneficiary's last known address no later than 90 days after the end of the trust's taxation year.

Copy 4: Keep this copy 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
Other income:	Interest income	$ 2,000.00		
	Minus: 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

Revenue Canada Revenu Canada

T3 Supplementary - Supplémentaire Rev. 94

STATEMENT OF TRUST INCOME ALLOCATIONS OR DESIGNATIONS
ÉTAT DES REVENUS DE FIDUCIE ATTRIBUÉS OU DÉSIGNÉS

Trust year ending / Fin d'année de la fiducie							
	If your social insurance number is not shown, see the back of this form. Si votre numéro d'assurance sociale ne figure pas dans cette case, reportez-vous au verso de cette formule.		12 Social insurance number / Numéro d'assurance sociale: 123-456-789	14 T	Account number / Numéro de compte: 98-7654-32	16 Report code / Code de genre de feuillet: 0	18 Beneficiary code / Code du bénéficiaire: 2
Year 1994 Année	21 Capital gains / Gains en capital: 10,000.00	22 Lump-sum pension benefits / Prestations de pension forfaitaires	23 Actual amount dividends - TCC / Montant réel des dividendes de SCI: 1,000.00	24 Foreign business income / Revenu étranger tiré d'entreprises	25 Foreign non-business income / Revenu étranger non tiré d'entreprises	26 Other income / Autres revenus: 4,300.00	
Month 12 Mois	30 Capital gains eligible for deduction / Gains en capital admissibles pour déduction: 9,000.00	31 Eligible pension income / Revenu de pension admissible	32 Taxable amount dividends - TCC / Montant imposable des dividendes de SCI: 1,250.00	33 Foreign business income tax paid / Impôt étranger payé sur un revenu tiré d'entreprises	34 Foreign non-business income tax paid / Impôt étranger payé sur un revenu non tiré d'entreprises	35 Eligible death benefits / Prestations consécutives au décès admissibles	36 Miscellaneous / Divers
	37 Insurance segregated fund capital losses / Pertes en capital sur fonds réservé d'assureur	38 Part XII.2 tax credit / Crédit d'impôt partie XII.2	39 Federal dividend tax credit - TCC / Crédit d'impôt fédéral pour dividendes de SCI: 166.67	Investment tax credit - Crédit d'impôt à l'investissement: 40 Investment / Investissement	41 Tax credit / Crédit d'impôt	Other tax credits - Autres crédits d'impôt: 42 Type / Genre	Amount / Montant

Beneficiary: Surname first, and full address
Bénéficiaire : Nom de famille d'abord et adresse complète

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

Footnotes: - Notes :

Name of trust / Nom de la fiducie: ***Estate of William Martin***

Return with T3 Summary
Retournez avec la déclaration *T3 Sommaire* **1**

Completing the T3 Summary

Identification

Enter the same information in this area that you entered on the T3 *Trust Income Tax and Information Return*.

Total number of T3 Supplementary slips filed

Enter the total number of T3 slips you are including with this T3 Summary.

T3 Supplementary totals

The line numbers on this return are the same as the box numbers on the T3 slips. Add together the amounts from all the T3 slips for a particular box number, and enter that amount on the corresponding line of the T3 Summary.

Summary of footnote amounts

The footnote amounts are amounts you included in boxes 21, 26, 30, or 37 on the T3 slips and that you

identified with an asterisk (*). You explained these amounts in the footnote space on the T3 slip. Total these footnote *amounts and enter them in the appropriate space on the* T3 Summary.

Filing the T3 Summary

Send the T3 Summary to us, **with** the T3 return and copy 1 of the related T3 slips. You have to file these forms no later than 90 days after the end of the trust's taxation year. For addresses and more information on filing requirements, see ''*General Information*'' *on page 4.* *We have also listed* addresses on the back of the T3 Summary.

Keep a copy of the T3 Summary with the trust records.

Note

If you are filing by magnetic media, you do not have to send us a completed T3 Summary.

Corrections, amendments, and replacements

If you prepare any amended T3 slips after you have filed the originals with us, please file an amended T3 Summary with revised totals. If applicable, you also have to 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.

Reminder

Remember that when you file a T3 Summary, you also have to file a T3 return. See Chapter 3 on page 15 for details.

Revenue Canada / Revenu Canada

SUMMARY OF TRUST INCOME ALLOCATIONS/DESIGNATIONS

T3 Summary(E)
Rev. 94

- Complete this form if, in the year, the trust allocated or designated income to a resident beneficiary, or if it made a preferred beneficiary election.
- File this form with the T3 return no later than 90 days after the end of the trust's taxation year.
- Attach copy 1 of the T3 Supplementary slips to this summary.

If you file your T3 Supplementary slips by magnetic media (on tape or diskette), you do not have to send us a copy of this form. For sending instructions, see box B on the back of this form.

Identification

Field	Entry
Name of trust	Estate of William Martin
Account number	T 9 8 - 7 6 5 4 - 3 2
Name of trustee, executor, or administrator	John Martin
Telephone number	(987) 123 0000
Mailing address of trustee, executor, or administrator	400 – 10th Street, Anytown
Postal code	T 3 T – 3 T 3
Summary for taxation year	From 94 01 01 (Year Month Day) To 94 12 31 (Year Month Day)
10 Total number of T3 Supplementary slips filed	1

T3 Supplementary totals

Summary of income allocated or designated to resident beneficiaries (including preferred beneficiary elections)

Item	Box	Amount
Capital gains	21	10,000 00
Lump-sum pension benefits	22	
Actual amount of dividends - TCC	23	1,000 00
Foreign business income	24	
Foreign non-business income	25	
Other income	26	4,300 00

Summary of other amounts designated to resident beneficiaries (including preferred beneficiary elections)

Item	Box	Amount
Capital gains eligible for deduction	30	9,000 00
Eligible pension income	31	
Taxable amount of dividends - TCC	32	1,250 00
Foreign business income tax paid	33	
Foreign non-business income tax paid	34	
Eligible 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 capital losses	37	
Part XII.2 tax credit	38	
Federal dividend tax credit - TCC	39	166 67
Investment for investment tax credit	40	
Investment tax credit (ITC)	41	
Other tax credits		
Saskatchewan livestock ITC	42-1	
Saskatchewan livestock facilities tax credit	42-2	

Departmental use only

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 26 – Self-employment earnings	
Box 30 – Qualified farm property	
Box 30 – Qualified small business corporation shares	
Box 37 – Non-eligible dispositions (after February 22, 1994)	
Box 37 – Eligible dispositions (before February 23, 1994)	

Certification

I certify that the information given in the T3 Summary and the related T3 Supplementary slips is, to the best of my knowledge, correct and complete.

Name of authorized person ______ Position or title ______ Signature of authorized person ______ Date ______

Ce formulaire existe aussi en français.

Chapter 6 — Election by a Personal Trust to Report a Capital Gain

Pending legislation — From tax changes announced on February 22, 1994

The February 22, 1994, budget eliminated the $100,000 capital gains exemption on capital property and eligible capital property disposed of after February 22, 1994. Under proposed subsection 110.6(19), personal trusts can elect to report a capital gain on such property under the following conditions:

- the trust was resident in Canada throughout the trust's 1994 taxation year;
- the trust owned property at the end of February 22, 1994; and either
  - the election results in an increase to the eligible taxable capital gains of the trust designated to an individual or individuals who were beneficiaries of the trust on February 22, 1994, and who were resident in Canada at any time during the individual's taxation year in which the trust's taxation year which includes February 22, 1994 ends; or
  - the election results in an increase in the amount a spousal trust can deduct as a capital gains exemption for its taxation year that includes February 22, 1994, whose beneficiary spouse has died during that taxation year.

Note

The $500,000 capital gains exemption remains in effect for dispositions of qualified farm property and qualified small business corporation shares. See page 27 for definitions of these properties. A personal trust can elect to report a capital gain on qualified farm property or qualified small business corporation shares owned at the end of February 22, 1994 as part of the $100,000 capital gains exemption.

This election allows a personal trust to recognize a capital gain on any or all of its capital property owned at the end of February 22, 1994, or all of its eligible capital property of a business the trust operates at the end of February 22, 1994, even though the property has not been sold. If the trust makes a distribution or a preferred beneficiary election, the increase in its net taxable capital gain can be designated to the relevant beneficiaries. If the elected capital gain was not payable before the end of the trust's taxation year, the elected capital gains are designated to the beneficiaries by preferred beneficiary elections.

Beneficiaries report the designated taxable capital gains and claim any of their unused $100,000 capital gains exemption. A spousal trust, where the beneficiary spouse has died in the year, can claim the deceased spouse's unused capital gains deduction.

If the trust makes an election, beneficiaries may be subject to:

- taxable capital gains being included in income, for which they no longer have any available capital gains exemption;
- reduced credits or benefits based on net income, even though their taxable income is not affected; or
- minimum tax.

Filing the election

The trust can make an election by filing Form 94-115, *Election to Report a Capital Gain on Property Owned by a Personal Trust at the End of February 22, 1994*. You have to file the election form by March 31 of the calendar year immediately following the end of the trust's taxation year which includes February 22, 1994. For example, a trust with a taxation year ending September 30, 1994, that chooses to elect to report a capital gain on property owned by the trust at the end of February 22, 1994, has to file Form 94-115 and preferred beneficiary elections by March 31, 1995. Copies of Form 94-115 are included with the T3 schedules in this package.

Amending or cancelling an election

The trust may be able to amend, either to increase or decrease an elected capital gain, or cancel an election for a particular property. You can amend an election by sending us a revised Form 94-115 before January 1, 1998. You may also cancel an election by filing a revised Form 94-115, or by notifying us, in writing, before January 1, 1998. Clearly note **amended** or **cancelled**, (as applicable) on the revised Form 94-115, and attach amended Schedules 1, 3, 4, 5, and 9 (as applicable), amended preferred beneficiary elections, and amended T3 Summary and T3 Supplementary slips.

If the trust amends the election to increase an elected capital gain, you have to estimate and pay a penalty on the difference between the original and amended capital gain. See Step 4 under "Completing Form 94-115" on page 70 to calculate the penalty.

We will not accept an amended or cancelled election if, on the original election, you designate proceeds of disposition more than 110% of the fair market value (FMV) of the elected-on property at the end of February 22, 1994.

Late-filed elections

We will accept elections up to two years from the filing due date, if you estimate and pay a penalty at the time of filing. See Step 4 under "Completing Form 94-115" on page 70 to calculate the required penalty.

General information

When you elect to report a capital gain on capital property owned by the trust at the end of February 22, 1994, we generally consider the trust to have sold the property on February 22, 1994, for **proceeds of disposition** and immediately reacquired the same property. The amount you choose as proceeds of disposition may depend on the amount of capital gain you wish to designate to the beneficiaries. For example, you may want to choose an amount that is less than the fair market value (FMV) of the property in order to report, and thereby designate, a smaller capital gain.

In most cases, the trust is considered to have reacquired the property at a cost equal to the designated proceeds of disposition. Exceptions to this rule exist if you elect to report a capital gain on:

- the trust's interest in, or shares of, the capital stock of a flow-through entity;
- eligible capital property; or
- non-qualifying real property, such as cottages or rental properties.

Flow-through entities

For a definition of flow-through entity see "Definitions" on page 12.

When a personal trust elects to report a capital gain on its interest in, or shares of, a flow-through entity, it can create an **exempt capital gains balance** for that entity. Generally, the exempt capital gains balance for 1994 for a flow-through entity is the elected capital gain which the trust reported as a result of the election. The trust can use the exempt capital gains balance to reduce capital gains:

- flowed to the trust by the flow-through entity after February 22, 1994; and
- it realizes on the disposition of its interest in, or shares of, the flow-through entity after February 22, 1994.

Claim a capital gains reduction on line 114 of Schedule 1.

If the flow-through entity is a partnership, the trust can also use the exempt capital gains balance to reduce its share of the business income of the partnership from the disposition of eligible capital property (other than recapture). Claim a business income reduction on Form T2124, *Statement of Business Activities,* T2042, *Statement of Farming Activities,* or T2124, *Statement of Fishing Activities.* Copies of these forms are available in the related income tax guides called *Business and Professional Income, Farming Income*, and *Fishing Income*.

The reduction of capital gain or business income is limited to the extent of exempt capital gains balance for that entity. If the trust elects to report a capital gain on more than one flow-through entity, you have to separately calculate the exempt capital gains balance for each flow-through entity. The exempt capital gains balance expires after December 31, 2004.

In most cases, the exempt capital gains balance, is the elected capital gain that is reported on Form 94-115 for the flow-through entity. If the proceeds of disposition you designate on Form 94-115 for the trust's interest in, or shares of, a flow-through entity are **not more than** the fair market value of the trust's interest in, or shares of, that entity at the end of February 22, 1994, the exempt capital gains balance for 1994, is the elected capital gain that you calculate in column 5, Part A of Step 2 on Form 94-115.

If the flow-through entity is a trust (other than a mutual fund trust), such as a related segregated fund trust, the exempt capital gains balance for 1994 is the elected capital gain calculated in column 5, Part A of Form 94-115.

If the proceeds of disposition you designate on Form 94-115 for the trust's interest in, or shares of, a flow-through entity are **more than** the fair market value of the trust's interest in, or shares of, that entity on February 22, 1994, the exempt capital gains balance may be less than the elected capital gain calculated for that entity. For more information on calculating the exempt capital gains balance, see Chapter 3 of the income tax guide *Capital Gains*.

Eligible capital property

Personal trusts can elect to report a taxable capital gain on **all** the eligible capital property owned by the trust at the end of February 22, 1994. That is, if you elect to report a capital gain on eligible capital property of a business the trust operates, you have to elect to report a capital gain on all of the eligible capital property of the business. The election will establish an exempt gains balance for each business. The trust can use the exempt gains balance to reduce business income (other than recapture of allowances deducted in previous years) from the disposition of eligible capital property. You can claim a business income reduction on Forms T2124, *Statement of Business Activities,* T2042, *Statement of Farming Activities,* and T2124, *Statement of Fishing Activities.* The reduction for each business is limited to the extent of the exempt gains balance for that business.

If the proceeds of disposition you designate on Form 94-115 for eligible capital property are **more than** the FMV at the end of February 22, 1994, you have to reduce the exempt gains balance for that business. For more information on calculating the exempt gains balance, see the chapter called "Eligible Capital Expenditures" in one of the following income tax guides: *Business and Professional Income, Farming Income*, or *Fishing Income*.

Non-qualifying real property

Generally, capital gains from the disposition of real property ceased to qualify for a capital gains deduction after February 1992. However, if the trust acquired property before March 1992 and still owned the property at the end of February 22, 1994, the portion of the capital gain that applies to the period before March 1992 qualifies for the capital gains deduction.

If the trust files an election for non-qualifying real property acquired before March 1992, you have to reduce the elected capital gain by the portion of the capital gain that does not qualify for the capital gains deduction, i.e., the portion that applies to the period between March 1992 and February 23, 1994.

Generally the trust is considered to have reacquired non-qualifying real property, other than the trust's interest in, or shares of, a flow-through entity, at a cost equal to the designated proceeds of disposition minus the reduction for non-qualifying real property. That figure is the elected capital gain from non-qualifying real property calculated on Form 94-115. If the non-qualifying property is an interest in, or shares of, a flow-through entity, see the area called "Flow-through entities" in this chapter.

If the proceeds of disposition you designate on Form 94-115 are more the fair market value of the non-qualifying real property, use the following formula to determine the reacquisition cost (new adjusted cost base):

$A - (B - C) = D$

where

A = FMV of the non-qualifying real property at the end of February 22, 1994

B = Designated proceeds of disposition

C = 110% of FMV of non-qualifying real property at the end of February 22, 1994

D = New adjusted cost base

Note

The new adjusted cost base cannot be less than zero. If the amount you determined at D is a negative amount, the trust will have a taxable capital gain to bring the new adjusted cost base to zero. Report that capital gain on the trust's 1994 income tax return.

Once you have determined the new adjusted cost base, you have to reduce that figure by the reduction on non-qualifying real property. The calculation of the reduction is explained on page 70.

Completing Form 94-115, *Election to Report a Capital Gain on Property Owned by a Personal Trust at the End of February 22, 1994*

Step 1 — List properties for which an election is being made

Enter a full description of the property for which you are filing an election, the date the trust acquired the property, and the FMV of the property at the end of February 22, 1994.

If you are electing on the trust's interest in a flow-through entity that is a trust (other than a mutual fund trust), you do not have to enter the fair market value of the property. If you are electing on the trust's share of eligible capital property of a business, enter ECP and the name of the business under "Description of property." Enter the trust's share of total fair market value for all the eligible capital properties of the business under the column "Fair market value at the end of February 22, 1994."

The following information will help you determine the fair market value (FMV) for certain properties.

Investments

The FMV of publicly traded securities will usually be the quoted stock market closing value for February 22, 1994. These quoted values are available from public listings of transactions on recognized stock exchanges, investment publications, or from brokers and investment dealers.

For securities in privately owned businesses, you can determine the FMV using information from a person who is familiar with the business, such as an accountant or a business valuator. For more information, see Information Circular 89-3, *Policy Statement on Business Equity Valuations.*

Listed personal property and other personal use property

You can determine the FMV of these properties by consulting with art, coin, jewellery, antique, and stamp dealers. You can also refer to catalogues for the value of these properties at the end of February 22, 1994.

Real estate

There are two main methods to determine the FMV of real estate on February 22, 1994. You can obtain a fully documented appraisal from a professional real estate appraiser. You can also determine the FMV by collecting information on sales around February 22, 1994, of similar properties located in the same area as the property you are electing to dispose of. You can get this information from:

- land-registry or land-titles offices,
- real estate pamphlets which provide asking prices, or
- newspapers, which also provide the asking price.

If possible, you should determine if the property was sold and what the actual sale price was.

We may accept other valuation methods. However, we may review any method you choose to value the properties on which you are making an election after we assess the return. You should, therefore, keep any documentation and information on which you have based the FMV.

Step 2 — Calculation of elected capital gains

Use the property number which corresponds to each property you list in Step 1 to separate the calculations for each property in Step 2.

Complete Part A if you are electing to report a capital gain on the trust's interest in or share of a flow-through entity, such as units of a mutual fund trust. If you are electing to report a capital gain on the trust's interest in a flow-through entity that is a trust (other than a mutual fund trust), do not complete columns 1 or 2. Administrators of *these trusts will report the share of any capital gain that* accrued to the end of February 22, 1994, to the unitholder in a letter or statement. Enter the unit-holder trust's elected capital gain from these sources directly in column 3.

If you are electing to report a capital gain on eligible capital property of a business operated by a personal trust, do not complete columns 1, 3, and 4. Instead, see the chapter called "Eligible capital expenditures" in one of the following income tax guides: *Business and Professional Income, Farming Income,* or *Fishing Income.* This chapter contains information on calculating the elected capital gain. Designate **one** amount for **all** the eligible capital property of the business and enter that amount in column 2.

Complete Part B if you are electing to report a capital gain on all other capital properties, or eligible capital property.

Column 1 — Adjusted cost base

Enter the adjusted cost base (ACB) for each property on which you are electing. To determine the ACB, see the definitions under "Capital Dispositions — Other terms" on page 26.

Column 2 — Proceeds of disposition

Enter the designated proceeds of disposition for each property. The proceeds of disposition that you choose cannot be less than the ACB of the property (column 1).

If you elect to dispose of depreciable property the trust acquired before 1972, you may have to adjust the proceeds of disposition before you calculate the elected capital gain. For more information see Interpretation Bulletin IT-217, *Capital Property owned on December 31, 1971 — Depreciable Property*, and its Special Release.

Note

You may not want to choose an amount more than the FMV of the property on February 22, 1994, as the designated proceeds of disposition. If you do, the new ACB will be an amount less than the proceeds of disposition. This will increase any capital gain on a later sale of the property.

Also, if you designate an amount more than 110% of the FMV of the property at the end of February 22, 1994, as the proceeds of disposition, we will not allow you to amend or cancel your election.

Column 3 — Capital gain before reduction

Subtract the amount in column 1 from the amount in column 2 for each property. Enter the result in column 3.

Column 4 — Reduction for non-qualifying real property

Capital gains on non-qualifying real property disposed of after February 1992 ceased to qualify for the capital gains deduction. If you are electing to report a capital gain on non-qualifying real property owned before March 1992 and still owned at the end of February 22, 1994, you have to reduce the elected capital gain by the non-qualifying portion, i.e., the portion that applies to the period between March 1992 and February 22, 1994. Calculate a separate reduction for each property.

You can determine the reduction by the following calculation:

$A \times B = C$

where

A = elected capital gain (column 3 of Step 2)

B = 24 divided by the number of months that the trust owned the property before March 1994*

* If the trust owned the property before January 1972, use 266 as the number of months in the calculation, i.e., start counting the months with January 1972.

C = the reduction

Enter the reduction for each property in column 4 of Part A or B, whichever applies.

Column 5 — Elected capital gain

For each non-qualifying real property on which you are electing, subtract the amount in column 4 from the amount in column 3. Enter the result in column 5.

If you are electing on any property other than non-qualifying real property, enter the column 3 amounts in column 5 for those properties.

In box 1, enter the total of all amounts in column 5 of Part A and transfer this amount to line A in Step 3. In box 2, enter the total of all amounts in column 5 of Part B and transfer this amount to line B in Step 3.

Step 3 — Calculation of elected capital gain

At line C, enter the total of lines A and B. Transfer this amount to line 111 of Schedule 1, *Summary of Dispositions of Capital Property*.

Step 4 — Penalty for late-filed or amended elections

We will accept an election filed after its due date only if you estimate and pay a penalty. The penalty for a late-filed or amended election is 1/3 of 1% of the increased elected taxable capital gain times the number of months from the filing due date to the date you actually file the late-filed or amended election. You have to pay the penalty when you file the late or amended election.

Complete Step 4 only for late-filed elections or amended elections that **increase** the elected capital gain. Use the chart of Form 94-115 to calculate the required penalty.

We will not accept an amended election if, on the original election, you designate proceeds of disposition more than 110% of the fair market value (FMV) of the elected-on property at the end of February 22, 1994.

Identify the property for which you are amending the election by the same property number you used in Step 1 of the original Form 94-115.

At line E, include only the gain on properties for which you are increasing the elected capital gain. At line G, include the month you are actually filing the late or amended election in the number of months.

Step 5 — Election and certification

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

If you need additional assistance with electing to report a capital gain, please call 1-800-959-8281. The regular hours of this telephone service are Monday to Friday (except holidays), 8:15 a.m. to 5:00 p.m.

Appendix A
Cost of Additions of Depreciable Assets

Some special rules apply when a trust acquires depreciable property by gift, inheritance, or bequest. The following rules determine the cost of depreciable property to the trust.

69(1), 73(1)

Property acquired by inter vivos gift — The cost is the fair market value of the property at the time the trust acquired it. An exception occurs for a spousal trust if, at the time it acquired the property, both the settlor and the trust were resident in Canada. The cost to the spousal trust is the undepreciated capital cost of the property to the settlor, unless the settlor elects otherwise.

70(5)

Property acquired by bequest or inheritance, and the trust is not a spousal trust that meets the conditions described in the previous paragraph — The cost of each property the trust acquired after 1992 will equal the fair market value of the property just before the settlor's death.

If the trust acquired the property before 1993, the cost 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.

70(6)

Property acquired by bequest or inheritance, and the trust is a spousal trust — If 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 the trust acquired after 1992 is the lesser of:

- the capital cost; and
- the cost amount of the property to the settlor just before death.

If the trust acquired the property before 1993, the cost amount is the undepreciated capital cost of the property to the settlor just before death.

70(9)

Property that is Part XI farm assets acquired by bequest or inheritance which is permanently vested in a resident child of the settlor within 36 months of death — If, 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 the trust acquired after 1992 is the lesser of:

- capital cost; and
- the cost amount of the property to the settlor just before death (unless the legal representative of the deceased elects otherwise.)

If the trust acquired the property before 1993, the cost 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 the trust acquired cannot be:

- *more than the greater of:*
  - the fair market value of the property just before the transfer; and
  - the undepreciated capital cost of the property just before the transfer; or
- less than the lesser of the two amounts described 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, you have to calculate the undepreciated capital cost of the property. To do this, you have to apportion the undepreciated capital cost of the class based on the ratio that the fair market value of the particular property is of the fair market value of all the property in the class.

If the original capital cost of depreciable property to the transferor is more 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. the employer will pay these entitlements after the employee's death, and in most cases will make out 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 person'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 person'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 the employer paid them. Report the payments on the deceased person's final T1 return, even if you receive a payment in a year after the year of death. The following table describes the payments and whether they qualify as rights or things. See table 4 below for alternative possibilities for reporting rights or things.

	Type of payment	Info slip	Deceased person's final T1 return	Rights or things
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 you receive a payment. 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

Appendix B
Employment and Employment-Related Income

3. Non-taxable amounts

The following amounts are non-taxable:

a) retroactive adjustments to amounts in 1a), b), or c) when the collective agreement or other authorizing instrument has been signed after the date of death; and

b) group term insurance such as the federal government's supplementary death benefit.

4. Alternative returns for reporting rights or things

Although rights or things are normally reported on the deceased person's final T1 return, under certain conditions, rights or things can be reported on a separate and optional return. The following table describes the conditions and the other returns on which rights or things 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

Index

Topic	Page
Account number	15
Actual amount of dividends	16, 39
Additional federal foreign tax credit	55
Additional investment tax credit	55
Adjusted cost base	26
Alberta royalty tax rebate	59
Allocations or designations	40
Allocation or designation of losses (Exceptions and limitations)	41
Allowable business investment loss (ABIL)	19
Annual gains limit	35
Appendix A — Cost of additions of depreciable assets	71
Appendix B — Employment and employment-related income	72, 73
Assets acquired before 1972	26
Bad debt from eligible capital property	30
Basic exemption — Minimum tax	57
Benefits from trust, taxable	21
Bonds	28
Books and records	8,30
British Columbia royalty and deemed income rebate	59
Business income	16
Business investment losses (allowable)	19
Canadian cultural property	30
Capital dispositions	26
Capital gains	26
Capital gains deduction	30, 38, 46, 62
Capital gains deduction for a spousal trust	22, 30
Capital gains designated by a trust to beneficiaries	44
Capital gains, eligible taxable	35, 37, 46
Capital gains, net taxable	44
Capital gains refund	23
Carrying charges	18, 40
Certification — Page 4	24
Charitable donations	21, 52
Clearance certificate	8
Commercial trust (see personal trust)	9
Communal organization	10
Completing the NR4 return (summary and supplementary)	51
Completing the T3 return	15
Completing the T3 Summary	64
Completing the T3 Supplementary slip	61
Contacting us	77
Cost amount (see Proceeds of Disposition)	26
Credits — Lines 85 to 100	23
Cumulative gains limit	36
Cumulative net investment loss	37
Death benefits	18, 47
Deductions — Lines 21 to 41	18
Deductions from total income, other	20
Deductions, related to sources of income	20
Deductions to arrive at taxable income, other	23
Deemed realization day	31
Deemed realization (disposition) — 21-year rule	18, 31
Deemed taxable capital gains	29

Topic	Page
Definitions	
Administrator (administratrix)	12
Allocated (allocation)	12
Arm's length	12
Arm's length transaction	12
Adjusted cost base	12
Beneficiary	12
Clearance certificate	12
Communal organization	12
Cost amount	12
Cumulative net investment loss	12
Deemed disposition	12
Deemed proceeds of disposition	12
Designate (designation)	12
Designated beneficiary	13
Disposition (dispose of)	13
Distribution	13
Election (elect)	13
Eligible beneficiary	13
Eligible capital property	13
Employee benefit plan	13
Employee trust	13
Executor (executrix)	13
Fair market value	13
Flow-through entity	13
Gift	13
Inter vivos	13
Inter vivos gift	13
Inter vivos trust	13
Intestate	13
Intestacy	13
Investment club	13
Listed personal property	13
Mutual fund trust	13
Non-arm's length	13
Non-arm's length transaction	13
Non-profit organization	13
Outlays and expenses	13
Personal trust	13
Preferred beneficiary	13
Principal residence	13
Proceeds of disposition	13
Segregated fund trust	13
Settlor	13
Spouse	13
Spousal trust	14
Testamentary trust	14
Testator (testatrix)	14
Trust	14
Trustee	14
Trust for a minor	14
Unit trust	14
Vested interest	14
Will	14
Designated beneficiary	49
Designated contributor	34
Designated income to be taxed in trust 104(13.1), 104(13.2), 108(1)	41
Designation of non-taxable dividends	39

Topic	Page
Designations	40
Distributing the NR4	51
Distributing the T3 Supplementary slip	64
Distribution of property to beneficiaries	25
Dividend income	16, 39
Dividend tax credit, federal	52
Dividends, non-taxable received by a trust	39
Donations, charitable	21, 52
Election — 164(6)	25
Election — 164(6.1)	25
Election — Preferred beneficiary	44
Election — to report a capital gain (Form 94-115)	67
Elections (late or amended)	8
Election to defer the deemed realization day (Form T1015)	33
Election to defer payment of tax (Form T2223)	33
Elective income — Resident beneficiaries	43
Eligible beneficiary	50
Eligible capital property	29
Eligible pension income	39, 47
Eligible taxable capital gains	35, 37, 46
Employee benefit plan	10
Employee trust	11
Employment related income	18, 72
Exempt beneficiary	33
Exemption from 21-year rule	32
Farming and fishing losses	22
Farming income	17
Federal income tax	51
Federal dividend tax credit	52
Federal foreign tax credit	53
Federal foreign tax credit, Additional	55
Federal political contribution tax credit	54
Filing — requirements	4
What to file	5
When to file	5
Where to file	6
Who should file	4
Final return	7
Fishing income	17
Foreign investment income	16, 39
Foreign non-business income tax paid	47
Foreign tax credit, federal	53, 55
Form 94-115, *Election to Report a Capital Gain on Property Owned by a Personal Trust at the end of February 22, 1994*	67
Form T3A, *Request for Loss Carry-Back by a Trust*	30
Form T1015, *Election by a Trust to Defer the Deemed Realization Day*	33
Form T1055, *Summary of Deemed Realizations*	31
General information	4
Gross-up amount of dividends	21, 40
Identification (page 1)	15
Income — Lines 01 to 20	15
Income paid or payable to non-resident beneficiaries	43
Income paid or payable to resident beneficiaries	43
Individual surtax payable	55
Insurance segregated funds	4, 11, 41
Inter vivos trust	9, 13
Inter vivos trust — Tax rates	52
Inter vivos trust — Taxation year	7
Interest	7
Interspousal transfers and loans of property	11
Investment income, foreign	16, 39
Investment income, other	16, 39
Investment loss, cumulative net	37
Investment club	11
Investment tax credit	54
Investment tax credit, Additional	55
Investment tax credit (ITC) designated	48
Late filing penalties	7, 63
Listed personal property	13, 22, 28
Listed personal property losses	22
Losses, allocation or designation	40
Losses, farming and fishing	22
Lump-sum payments — ITAR 40	16, 53
Magnetic media filing	60
Median rule	26
Minimum tax, basic exemption	57
Minimum tax — Calculation, Schedule 12	55
Minimum tax — Carry-over from previous year	52
Minor, trust for a	9
Mutual fund trust	9
Net capital losses of other years	22, 57
Net taxable capital gains	45
NISA Fund No. 2	17, 41
Non-capital losses of other years	21
Non-profit organization	4, 11, 23
Non-qualifying real property	36, 70
Non-resident beneficiaries	43, 51
Non-resident — Income paid or payable	43
Non-resident trusts	6, 53, 58
Non-resident withholding tax — Part XIII	50
Non-taxable dividends received by a trust	39
Non-taxable portion of capital gains retained by the trust	58
Northwest Territories tax credit, refundable	24
NR4 Supplementary	51
NR4 Summary	51
Ontario tax reduction	58
Other credits	55
Other deductions from total income	20
Other deductions to arrive at taxable income	23
Other income	18, 46
Other investment income	16, 39
Other securities and properties	27
Outlays and expenses	26
Part XII.2 tax (Schedule 10)	48
Part XII.2 tax credit	23, 48
Part XIII tax, adjustment	50
Part XIII tax, non-resident withholding	50
Payment on account of tax or tax paid by instalments	23
Penalties	7
Pension income (benefits)	16, 38, 45
Pension income, eligible	39, 47
Personal trust	9
Personal-use property	28

Topic	Page
Political contribution tax credit (federal)	54
Political contribution tax credit (provincial and territorial)	57
Preferred beneficiary election	44
Preferred beneficiary	44
Principal residence	28
Problem Resolution Program	77
Proceeds of disposition	26
Provincial or territorial tax payable	57
Qualified farm property	27, 38
Qualified small business corporation shares	27, 38
Qualifying individual	34
Quebec abatement, refundable	57
Real estate and depreciable property	28
Real estate rental income	17
Real property (non-qualifying)	36
Reassessments	8
Records and books	8, 30
Refund code	24
Refundable Northwest Territories tax credit	24
Refundable Part XII.2 tax credit	50
Refundable Quebec abatement	55
Registered retirement savings plans (RRSP)	18
Rental income, real estate	17
Request for a loss carry-back by a trust	30
Reserves on dispositions of capital property	35
Residence of trust	6
Resource allowance	20
Retirement compensation arrangement (RCA)	5, 10
Rights or things	71
Salary deferral arrangement	10
Saskatchewan flat tax	59
Saskatchewan tax incentives	59
Schedules	25
Schedule 1 — Summary of Dispositions of Capital Property	25
Schedule 2 — Calculation of Reserves on Dispositions of Capital Property	35
Schedule 3 — Calculation of a Trust's Eligible Taxable Capital Gains	35
Schedule 4 — Calculation of Cumulative Net Investment Loss	37
Schedule 5 — Beneficiary Spouse Information and Calculation of Spousal Trust's Capital Gains Deduction	38
Schedule 6 — Calculation of Total Taxable Capital Gains Attributable to Qualified Farm Property or Qualified Small Business Corporation Shares	38
Schedule 7 — Statement of Pension Income Allocations/Designation	39
Schedule 8 — Statement of Investment Income and Calculation of Gross-up Amount of Dividends Retained by the Trust	39
Schedule 9 — Summary of Income Allocations/ Designations to Beneficiaries	40
Schedule 10 — Calculation of Part XII.2 Tax and PartIII Non-resident Withholding Tax	48
Schedule 11 — Calculation of Federal Income Tax	51
Schedule 12 — Calculation of Minimum Tax	55
Schedules 13 and 14 — Calculation of Provincial and Territorial Income Taxes	57
Segregated fund trust	11
Social insurance number	61
Specified income	49
Spousal trust	9
Spousal trust — Capital gains deduction	22, 30
Summary of deemed realizations (Form T1055)	31
Summary of tax and credits, lines 81 to 100	23
Surtax — individual	55
Surtax on income not subject to provincial or territorial tax	53
T3 Summary (completing and filing)	64
T3 Supplementary (completing and distributing)	61
Table of contents	3
Tax adjustments — ITAR 40	16, 52
Taxable benefits	21
Taxable capital gains	15, 30
Taxable capital gains deduction — Spouse trust	22, 30
Taxable capital gains eligible for deduction	46
Taxable income of the trust, calculation	23
Taxation year	6
Territorial tax payable, provincial or	57
Testamentary trust	6, 8
Testamentary trust — Taxation year	6
Testamentary trust — 164(6) election	25
Testamentary trust — 164(6.1) election	25
Total income allocations/designations to beneficiaries	43
Total taxable capital gains	15, 30
Transfer and loans of trust property	11
Transfer of trust property	34
Trust for a minor	9
Trustee fees	18
Types of trusts	8
Unit trust	9
Upkeep, maintenance, taxes — Beneficiary	21
Valuation day value election	27
Value of other benefits to beneficiary	21
Waiver of penalty and interest	8

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 income tax office.

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

- the name, address, and account number of the trust;
- 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;
- the taxation year or years to which the authorization, or cancellation of the authorization, applies; and
- your signature and title as the authorized signing person (trustee, executor, or administrator), your telephone number, and the date.

You have to complete a separate written authorization or consent form 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.

Problem Resolution Program

Revenue Canada always looking at ways to make it easier for you to file your tax return, and to resolve any problems you may have.

We deal with the majority of your questions and concerns through normal channels. In other words, if you have a problem, you should call, write, or visit the Enquiries counter of your Revenue Canada income tax office. However, if your problem is still not resolved to your satisfaction, you can contact a Problem Resolution Program Co-ordinator.

To contact the co-ordinator of the Problem Resolution Program at your income tax office, see the listings at the end of this guide.