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Canada

T3 Guide and Trust Return

96

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What's New for 1996?

Proposed changes

This guide and return includes income tax changes that had been announced but were not law at the time of printing. These changes are outlined in red in this guide under the heading "Proposed changes."

Changes

Guide

If you are filing a T3 return for an estate which has pension income, investment income, or death benefits only, you do not need to read the entire guide. We have marked all the information that may relate to your situation using the ▲ symbol. This symbol is shown to the right of headings in this guide, and to the left of lines on the T3 return which may relate to your situation.

For more information, see "General Information" on page 4.

Schedules

In the interest of saving paper and printing costs, we have eliminated Schedules 2, 3, 4, 5, and 12 from the centre of this guide. These schedules are not commonly used. They are available from any of our offices, our Electronic Data Distribution System (EDDS), or the Internet. The instructions for completing these schedules remain in Chapter 4 of this guide.

Foreign property

There are new rules for reporting ownership of foreign property. For more information, see page 5.

Deemed dispositions

A trust may have a deemed disposition of property if it distributes property to a non-resident beneficiary after October 1, 1996, or if it ceases to be a resident of Canada after October 1, 1996. For more information, see pages 23 and 25.

Charitable donations

The maximum claim has been increased to 50% of the trust's net income, plus 50% of the taxable capital gain included in taxable income from capital property donated in the year. For more information, see page 46.

Internet access

If you have access to the Internet, many of our publications and forms are available on line. Our Internet address is:

http:/ /www.rc.gc.ca/

Confidentiality procedures prevent us from providing personal tax information over the Internet. Therefore, you should continue to direct any enquiries to your tax services office or tax centre.

This guide uses plain language to explain the most common trust income tax situations. For easier reading, we have used the word "you" throughout the guide to mean the trustee, executor, administrator, or anyone preparing the return, supplementary, or summary on behalf of the trust. If you need more help after reading this guide, please contact us. You can find the telephone numbers listed under "Revenue Canada" in the Government of Canada section of your telephone book.

La version française de cette publication est intitulée *T3 – Guide d'impôt et déclaration des fiducies.*

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Chapter 1 – General Information ▲

This guide contains information to help you complete the 1996 T3, *Trust Income Tax and Information Return* (T3 return). The information is intended only as a guide. It is not a substitute for the *Income Tax Act* or *Income Tax Regulations*. The headings for most items contain references to relevant provisions of the Act and the Regulations.

Throughout this guide, we refer to other publications and guides that give more detailed information. These publications are available from your tax services office, tax centre, or the Internet. When you request a publication, always ask for the most recent version. If you need more help after reading this guide, please contact us.

You may not need to read the whole guide ▲

If you are filing a T3 return for an estate which has only pension income, investment income, or death benefits, you do not need to read the entire guide.

We will lead you directly to the information that may relate to your situation by using a ▲ symbol. You will find this symbol in the left margin of the return, beside the lines which may relate to your situation.

You can follow the symbol throughout the rest of guide and the T3 return.

Before you start completing the return, be sure to read:

- "Chapter 1 – General Information," pages 4 to 8;
- the general information and "Step 1 – Identification" in Chapter 3, starting on page 14; and
- the general information preceding "Completing the T3 Supplementary slip" in Chapter 5, starting on page 53.

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 19); **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 on 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 distribution. In these cases, 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 and 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,** the main purpose of which 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 and 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 Form T1044, *Non-Profit Organization (NPO) Information Return,* for a taxation year ending after 1992, if either of the following applies:
  - 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 taxation year, 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 *Income Tax Guide to the Non-Profit Organization (NPO) Information Return.*
- 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); and
- qualified investment (T3F).

For more information, see Information Circular 78-14, *Guidelines for Trust Companies and Other Persons Responsible for Filing T3R-IND, T3R-G, T3RIF-IND, T3RIF-G, T3H-IND, T3H-G, T3D, T3P, T3S, T3RI, and T3F returns.*

- 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 more information, see Information Circular 93-3, *Registered Education Savings Plans.*
- A registered Canadian amateur athletic association acting as a trustee for **amateur athlete trusts** has to file an annual return for the amateur athlete trusts. The return is Form T1061, *Canadian Amateur Athlete Trust Group Information Return.* If the trust makes a payment to a non-resident athlete, complete Form T3ATH-IND, *Amateur Athlete Trust Income Tax Return.* The trustee has to prepare a T3 Supplementary, *Statement of Trust Income Allocations and 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 Form T3, *Trust Income Tax and Information Return,* for the employee benefit plan portion, if any, and Form T3-RCA, *Part XI.3 Tax Return–Retirement Compensation Arrangement (RCA).* The custodian of an RCA trust has to prepare Form T4A-RCA, *Statement of Amounts Paid in Respect of a Retirement Compensation Arrangement (RCA),* to report any distributions to retired employees made out of an RCA during the year. For more information, see the *Retirement Compensation Arrangement Guide.*
- The custodian of an **eligible funeral arrangement** has to file a T5 Summary, *Return of Investment Income* and T5 Supplementary, *Statement of Investment Income,* for a taxation year in which funds were returned to a contributor or his or her estate from an eligible funeral arrangement. For more information, see the *T5 Guide – Return of Investment Income.*
- The trustee for a **registered charity** has to file Form T3010, *Registered Charity Information Return and Public Information Return.* For more information, see *Completing the Registered Charity Information Return.*
- A trustee or receiver appointed under the *Bankruptcy Act* who is acting for an individual has to file an individual income tax (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,* and T5 Supplementary, *Statement of Investment Income,* for payments of investment income. For more information, see the *T5 Guide – Return of Investment Income.*
- The trustee of a **mining reclamation trust** has to file Form T3M, *Mining Reclamation Trust Income Tax Return.* The instructions for filing this return are with Form T3M.

Foreign property reporting requirements for taxation years that begin after 1995

Proposed changes – From tax changes announced on February 27, 1995

- The trustee of a trust with a foreign affiliate trust or corporation, has to file Form T1134, *Information Return Relating to Foreign Affiliates.* Form T1134 contains more information about filing.
- The trustee of a trust (other than an amateur athletic trust, an employee trust, a master trust, or a trust governed by an eligible funeral arrangement, a deferred profit sharing plan, an employee benefit plan, an employee's profit sharing plan, a foreign retirement arrangement, a registered retirement savings plan, a registered retirement income fund, a registered education savings plan, a registered pension plan or fund, a registered supplementary unemployment benefit plan, a related segregated fund trust, a communal organization trust, a trust exempt from tax under Part I, a mutual fund trust, or a registered compensation arrangement trust), which owns specified foreign property with a total cost amount of more than $100,000 in Canadian dollars, has to file Form T1135, *Information Return Relating to Foreign Property.*

  Foreign property includes:

  - funds held outside Canada, including foreign bank accounts, securities held outside Canada, and shares of a Canadian company deposited with a foreign broker;
  - tangible property located outside Canada, including real estate and equipment;
  - shares in non-resident corporations;
  - an interest in foreign mutual funds;
  - intangible property located outside Canada, such as rights and royalties; and
  - debts (such as a note, bond, or debenture) owned or issued by a non-resident.

  Foreign property does not include:

  - property held in registered retirement savings plans, registered retirement income funds, or registered pension plans;

- property the trust holds or uses exclusively in the course of carrying on an active business; or
- personal-use property.

Form T1135 contains more information about filing and kinds of foreign property.

- The trustee of a trust which has transferred or loaned any amount to a foreign trust or to a controlled foreign affiliate of a trust, or whose controlled foreign affiliate has transferred or loaned any amount to a foreign trust or to a controlled foreign affiliate of the trust (except specified foreign pension plans and specified foreign mutual fund trusts), has to file Form T1141, *Information Return in Respect of Transfers to Non-Resident Trusts.* Form T1141 contains more information about filing.
- The trustee of a trust that receives distributions from, or is indebted to, a foreign trust in which it has a beneficial interest, has to file Form T1142, *Information Return in Respect of Distributions From and Indebtedness Owed to a Non-Resident Trust.* Form T1142 contains more information about filing.

What to file?

- Form T3, *Trust Income Tax and Information Return,* 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, *Summary of Trust Income Allocations and Designations,* and T3 Supplementary, *Statement of Trust Income Allocations and Designations* – one copy of each form.
- NR4 Summary and NR4 Supplementary for non-resident beneficiaries – for more information, see "Completing the NR4 return" on page 45.
- 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, employee trusts, and payments that are scholarships, fellowships, bursaries, prizes, and research grants.

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

You will find two copies of the T3 return, and commonly used schedules in the centre of this guide. You can get copies of the return, all schedules, summary forms, and supplementary slips (NR4, T3, T4, T4A, and T4A-NR) from any of our offices, our Electronic Data Distribution System (EDDS), or the Internet.

Be sure to use the most recent version available. The year appears at the top-right corner of the form. For example, "T3 1996" identifies the 1996 version of Form T3, *Trust Income Tax and Information Return.*

If you have to file a return for the 1997 taxation year, and the 1997 return is not available, you can use the 1996 version.

If you are filing a return for an earlier year, please complete the return and schedules designed for that year, 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 8 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 page 7. For information on late-filing penalties and interest on unpaid taxes, see "Penalties and interest" on page 8.

Where to file?

The mailing address of the trustee, rather than the address of the trust, determines the office to which you should mail the return. Trustees served by the tax services office listed on the left, below, should send the return to the office listed on the right.

Tax services offices	Office
Bathurst, Charlottetown, Halifax, Moncton, Newfoundland and Labrador, Saint John and Sydney	St. John's Tax Centre ~~St. John's NF A1B 3Z1~~
Chicoutimi, Québec, Rimouski, Rouyn-Noranda, Sherbrooke and Trois-Rivières	Jonquière Tax Centre ~~Jonquière QC G7S 5J1~~

Laval, Montréal, Montérégie-Rive-Sud and Outaouais	Shawinigan-Sud Tax Centre ~~Shawinigan-Sud QC G9N 7S6~~
Ottawa, Toronto Centre, Toronto East, Toronto North and Toronto West	Ottawa Tax Centre ~~Ottawa ON K1A 1A2~~
Belleville, Hamilton, Kingston, Kitchener/Waterloo, London, Peterborough, St. Catharines, Sudbury, Thunder Bay and Windsor	Sudbury Tax Services Office ~~Sudbury ON P3A 5C1~~
Calgary, Edmonton, Regina, Saskatoon and Winnipeg	Winnipeg Tax Centre ~~Winnipeg MB R3C 3M2~~
Burnaby-Fraser, Southern Interior B.C., Northern B.C. and Yukon, Vancouver and Vancouver Island	Surrey Tax Centre ~~Surrey BC V3T 5E1~~

If you have any questions about trusts resident in Canada, call or visit your tax services office or tax centre. You will find the telephone numbers and addresses listed under "Revenue Canada" in the Government of Canada section of your telephone book.

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 Tax Services Office
Revenue Canada
2204 Walkley Road
Ottawa ON K1A 1A8

If you have any questions about non-resident trusts, call the International Tax Services 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 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, see 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 complete definition, see "Testamentary trust" on page 9.

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 the trustee selects 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 pay any balance due no later than 90 days after the trust's year end. See "Interest" on page 8 for information about interest charges on unpaid amounts.

There are several reasons why you may prefer to choose a calendar year end, that is, December 31, for a testamentary trust.

- Availability of forms – The current-year trust returns and related schedules are usually not available until the end of the calendar year. That is, the 1997 T3 returns and schedules will not be available until the end of 1997. A 1997 return due before the forms are available would have to be filed on a 1996 form. Also, the 1996 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 coincides with the calendar year.
- Availability of information – Most information slips for income amounts are issued for a calendar year (e.g. T5 slip for bank interest).

There also may be advantages if you choose a non-calendar year end as the date for the trust's year end. 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 taxation year.

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 pay any balance due no later than 90 days after the trust's year end. For information about interest charges on unpaid amounts, see "Interest" on this page.

Final return

If you are filing the final return for the trust, you have to enter the wind-up (discontinuation) date on page 1 of the T3 return. If a **testamentary trust** is wound up 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, 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 during a taxation year, you may want to file a final return before the end of the trust's usual taxation year. However, you should get a clearance certificate before you distribute the trust property. For more information, see "Clearance certificate" on page 9.

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 you allocate or designate income to recipients and you file the return late, or when you distribute the slips to the recipients late. This penalty will also apply if you fail to provide two copies of each information slip to each person to whom the information relates.

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. If convicted, 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.

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 day of the overpayment.

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, see 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 carryback 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 owing. 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 your tax services office before the normal reassessment period expires; or
- you have made a misrepresentation because of neglect, carelessness, willful 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 taxation 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 *Income Tax Regulations*. You can request written permission to dispose of such books and records. For details, see Information Circular 78-10, *Books and Records Retention/Destruction*.

Clearance certificate
159(2), (3)

The *Income Tax Act* requires that every administrator, executor, and trustee get a clearance certificate before distributing any property under his or her 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, complete Form TX19, *Asking for a Clearance Certificate*. Send the completed Form TX19 to the appropriate tax services office.

Please make sure you send us all the information and documentation such as the will or trust documents that we request on Form TX19. This makes 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. For more information, see Information Circular 82-6, *Clearance Certificate*.

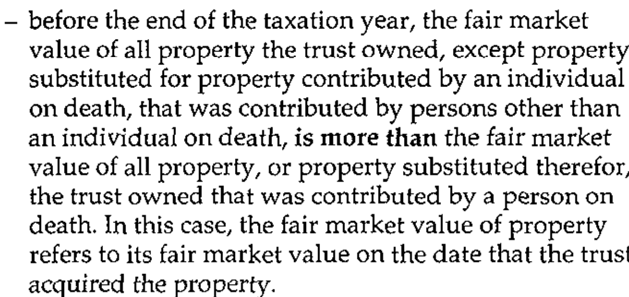
Types of trusts

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



  - before the end of the taxation year, the fair market value of all property the trust owned, except property substituted for property contributed by an individual on death, that was contributed by persons other than an individual on death, **is more than** the fair market value of all property, or property substituted therefor, the trust owned that was contributed by a person on death. In this case, 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 taxation year 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 to explain the situation. In the year of change, the taxation year 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 following paragraphs 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 can be either a testamentary trust **or** an inter vivos trust an individual created for a spouse. See the definition of the term **spouse** on page 14. 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 can receive, or otherwise get, the use of any income or capital of the trust during the spouse's lifetime.

Also, when the property is transferred to the trust, both the settlor, that is, the 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 7. 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 when that trust does not meet the qualifications of a spousal trust. For more information about spousal trusts, see 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, for which 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 of the following dates 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, when 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 right to the income of 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*.

For taxation years that begin after 1995, income retained in the trust is taxed in the hands of the beneficiary if:

- the trust is resident in Canada throughout the year;
- the beneficiary is under 21 years of age at the end of the year; and
- the beneficiary's right to income is vested before the end of the year and the vesting does not depend on the exercise or non-exercise of a discretionary power and is not subject to any future condition other than the condition that the beneficiary survive to an age of not more than 40 years.

Unit trust

108(2)(a), (b)

A unit trust is an inter vivos trust where 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 in property (other than real property), and/or acquiring, maintaining, leasing, or managing real property that is capital property of the trust. Such a trust has to comply with the conditions prescribed under Regulation 4801.

Communal organization

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We consider an inter vivos trust to exist 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, to support or sustain 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 the employee made. We consider amounts the employee or heirs receive 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 of the *Income Tax Act*:

- 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 and the income that 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, such as contributions or 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 investment income. 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.

An agreement under a salary deferral arrangement, made in writing before February 26, 1986, is treated as an employee benefit plan if contributions are for services rendered:

- before July 1986; or
- after June 1986, if the employee is bound under contract to defer receiving that income.

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

Report on a T4A slip, payments out of or under an employee's benefit plan. 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 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 to that portion of plan funding in place before the RCA rules became effective.

The custodian of an RCA trust has to prepare Form T4A-RCA Summary, *Return of Distributions in Respect of a Retirement Compensation Arrangement (RCA),* to report any distributions made out of an RCA during the year to retired employees. The custodian also has to file Form T3, *Trust Income Tax and Information Return,* for the employee benefit portion, and Form T3-RCA, *Part XI.3 Tax Return – Retirement Compensation Arrangement* (RCA). For more information, see the *Retirement Compensation Arrangement Guide.*

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.** 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 the financial statements.

When the beneficiaries of the fund are both registered and non-registered plans, report and allocate only the income that applies to the non-registered plans on the T3 return.

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.

As long as the non-profit organization remains exempt from tax, you do not need to file a T3 return.

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. Any capital gain from the disposal of any property that is not used to provide those services is also taxable.

The deemed trustee for the **inter vivos trust** has to file a T3 return when its gross or total income from property, including interest income, rental income, and other investment income and 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 on 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 taxation years 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. File this return 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 the trust has made this election. 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 and Designations to Beneficiaries*, 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*.

Master trust
149(1)(o.4), Regulation 5001

A trust is a **master trust** if during the entire time since its creation:

- it was resident in Canada;
- its only undertaking was the investing of its funds;
- it never borrowed money except for a term of 90 days or less (for this purpose the borrowing cannot be part of a series of loans or other transactions and repayments);
- it has never accepted deposits; and
- each of its beneficiaries is a registered pension plan or a deferred profit-sharing plan.

A master trust can be exempt from Part I tax if it elects, in its income tax return for its first taxation year, to be a master trust. To make this election, simply enclose a letter with the *T3 Trust and Information Tax Return*. The trust does not have to file T3 returns for taxation years after it makes the election.

Eligible funeral arrangement
148.1, 248(1)

An eligible funeral arrangement is an arrangement established and maintained by a person licensed or otherwise authorized under the laws of a province to provide funeral services, under which contributions are made solely for funding funeral services. The arrangement may have one or more custodians, each resident in Canada at the time the arrangement is made.

Proposed changes – From tax changes announced on April 26, 1995

For 1993 and subsequent taxation years, eligible funeral arrangements include arrangements to provide cemetery services, under which contributions are made solely for funding cemetery care.

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 can transfer or lend property to a trust for the benefit of the transferor's **spouse**. In this case, the transferor, who is the individual, while alive and resident in Canada, 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 can 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, for example, 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 and Certain Other 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 can receive a low-interest or interest-free loan from a trust to which property was transferred by another individual. If the main reason for the loan is to reduce or avoid tax on the income from the property or substituted property, and the two individuals do not deal at arm's length, the trust has to report the income from that loaned property or any property substituted for it. This rule also applies to an arm's length commercial loan the individual uses to repay the original low-interest or interest-free loan.

Chapter 2 – Definitions

This chapter provides a general description of the technical terms that we use in this guide.

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

Allocate (allocation) – To assign, set apart, or distribute income from the trust to a beneficiary. These amounts generally have to be included in the beneficiary's income. For more information, see "Allocations and designations" on page 36.

Arm's length – Describes a relationship such as one found in a business transaction where no party has a direct influence over the 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. For more information, see Interpretation Bulletin IT-419, *Meaning of Arm's Length*, and its Special Release.

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

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, or will not, actually receive any funds.

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 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.

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 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 – 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, or 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.

Inter vivos – Between living persons.

Inter vivos gift – A gift of property by a living person. To make such a gift effective, the property has to be delivered during the lifetime of the donor and without reference to his or her death.

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

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

Listed personal property – We explain this term on page 27.

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.

Preferred beneficiary – For taxation years beginning after 1995, 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 and to whom the tax credit for mental or physical impairment under subsection 118.3(1) of the Act applies, or would apply of there were no deduction claimed for an attendant or care in a nursing home in respect of the beneficiary.

See the definition of **settlor** later on this page.

Principal residence – A principal residence is a property that is a 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.

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 as well as a common-law spouse. A common-law spouse is a person of the opposite sex who, at that particular time, lived 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); or
- is the natural or adoptive parent (legal or in fact) of that person's child.

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.

Spousal trust – A spousal trust is one which an individual creates for a spouse, under which the spouse is entitled to receive all the income of the trust that arises during the spouse's lifetime and who is the only person who may receive the use of any income or capital during the spouse's lifetime.

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
- a statute.

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

There are three essential characteristics of 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.

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 or her 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 (page 1);
- report income and deductions to calculate net income (page 2);
- deduct trust income that is allocated to its beneficiaries (page 2);
- complete appropriate schedules using the questions under "Schedules and other required information" (page 3);
- 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 important that you complete each item correctly because we use the information about the residence of the trust and type of trust to determine the correct rate of tax.

  Use box 10 to identify personal inter vivos trusts which are not spousal trusts or communal organizations. For more information about the types of trust, see "Types of trusts" on page 9.
- **Date of death** (testamentary trust) or **date trust created** (inter vivos trust) – Provide this information on each return filed.
- **Non-profit organization** – If the non-profit organization is incorporated, enter the corporation account or business number.

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 51). 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. 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, or all exempt beneficiary's interests have been settled, see "Form T1015, *Election by a Trust to Defer the Deemed Realization Day*" on page 29.

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 when you file the T3 return. After you file the return, you cannot make, withdraw, or change designations under subsections 104(13.1) and 104(13.2). For more information, see "Designated income to be taxed in trust" on page 37.

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 on line 122 of Schedule 1 is a taxable capital gain, enter it on line 01.

If the trust's allowable capital losses for the year (except allowable business investment losses as described under line 25) are more than the trust's taxable capital gains for the year, the difference becomes a **net capital loss** for the year. You cannot deduct the net capital loss from other income of the trust in the year, or allocate it to the beneficiaries (except as described under "Exceptions and limitations for income allocations" on page 37). The net capital loss can be applied back to the three previous years or forward indefinitely against any taxable capital gains of those years. For more information on losses, see "Line 51" and "Line 52" on page 20.

> **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 23.

If a trust sold capital property after February 22, 1994, and realized a gain, the gain is treated as a capital gain. If a trust sold eligible capital property, during a taxation year which began after February 22, 1994, and realized a gain, the gain will be treated as business income. If the eligible capital property is qualified farm property, the gain will qualify for the $500,000 capital gains exemption. For more information on calculating business income from the disposition of eligible capital property, see the income tax guides called *Business and Professional Income* and *Farming Income.*

Line 02 – Pension income ▲

56(1)(a)(i), 147(10)

Enter at this line 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), (b), or (h) of the United States *Internal Revenue Code of 1986.*

Lump-sum payments

Income Tax Application Rules (ITAR) 40(1), (5), and (7)

If you are allocating the trust income to beneficiaries, include on line 02 any lump-sum payments (accrued to December 31, 1971) the trust received from a pension fund

or a deferred profit-sharing plan. 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 on line 02. Instead, enter "ITAR 40" on line 02 and on 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 ▲

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Report the **actual amount** of taxable dividends the trust received from taxable Canadian corporations on 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 on line 04. Report foreign income in Canadian funds at the gross amount before withholding taxes are deducted.

Line 05 – Other investment income* ▲

On 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 on line 03. Attach all information slips received.

> *Note
> Interest a financial institution credited to the trust's account is interest the trust received.
>
> 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 individual income tax return. Do not include the interest in income the trust received and reported.

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

Enter net business income on line 06, and the gross business income on 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 the trust carried on. For more information, see the income tax guide called *Business and Professional Income*.

Gains from the disposition of eligible capital property are income from business. For more information, see the income tax guide called *Business and Professional Income*.

Lines 07 and 08 (net), lines 97 and 98 (gross) – Farming income and Fishing income

Enter the net income from farming on line 07, and the gross farming income on line 97. Enter the net income from fishing on line 08, and the gross fishing income on 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 you choose a method, you have to use the same method each year. If you want to change the trust's method of determining income, contact your tax services 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.

There are special rules for calculating income from an unincorporated business which has a fiscal period that does **not** end on December 31. If the trust operates a business with a fiscal period end other than December 31, you will need the pamphlet called *Tax Changes Relating to the 1996 and Subsequent Year Ends*, in order to calculate the income from the business to report on the trust return.

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

Enter the net income from real estate rentals on line 09, and the gross rental income on line 99. If the trust is a member of a partnership, enter the trust's share of the net rental income on line 09, and the partnership's gross rental income on 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. We explain the rules in Appendix A "Cost of Additions of Depreciable Assets" on page 60.

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 are reported on line 10.

Payers of farm support payments issue information slip AGR 1, *Statement of Farm Support Payments*, to producers who receive 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 applies to most agricultural programs,

including those delivered by Agriculture Canada and Agri-Food 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)," which follows.

On line 10, the trust has to report the amount, if any, by which A is more than B, where:

A = the amount paid in the year out of the fund (or deemed to have been paid out of the fund, 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.

Make separate calculations for each amount either paid or deemed paid.

Income reported on line 10 is taxable in the trust. Do not include it in "Total income allocations and designations to beneficiaries" on line 47, except for amounts reported by a testamentary spousal trust that relate to payments received while the beneficiary spouse was still alive. Use the space below line 10 to show any of the amount on line 10 that relates to payments received while the beneficiary spouse was, or is 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" on line 11. Calculate this amount on Form T1055, *Summary of Deemed Realizations*. For more information, see "Deemed realization (disposition) – 21-year rule" on page 28.

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 Pension Plan or Quebec Pension Plan;
- retiring allowances, unless this amount is reported by a beneficiary, or reported in the retired person's income for year of death as a **right or thing.** (For more information, see Interpretation Bulletin IT-337, *Retiring Allowances)*; and
- certain employment-related income (see Appendix B on page 61 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 on line 19, see Interpretation Bulletin IT-508, *Death Benefits – Calculation.* Any amount of the death benefit you excluded from the trust's income on line 19 will reduce the amount of death benefit that you can designate to the beneficiaries. For more information, see "Line 935" on page 42.

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. Usually, this income is shown on a T5 or T4RSP slip issued to the estate. The trust should usually include this amount in "Other income" on line 19. 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)

On 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 on 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 Buy Life Insurance Policies and Annuity Contracts, and Interest on Policy Loans.*

Lines 22 to 24 – Trustee fees

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

The trust can deduct trustee fees from the trust's income on line 22, if the fees were paid to a person for giving advice on purchasing or selling, or for administering or managing shares or securities. 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 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 or executor fees for administering the trust or looking after real property (e.g. a residence) used by a lifetime 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.

On line 22, enter the **total** trustee and executor fees the trust paid. Include any fees which were not incurred to earn income as well as those deducted from business or property income.

On line 23, enter the portion of the amount on line 22 which was not incurred to earn income or which has been deducted on another line of the T3 return.

Whether or not deductible, executor and trustee fees are income from office or employment if the trust pays executor fees 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, the trust has to prepare a T4 slip for that individual. The individual has to report these amounts as income from an office, even if they do not receive a T4 slip. If the trust pays fees to a non-resident of Canada for services performed in Canada, complete 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.* You have to file T4 and T4-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 the current year.

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

The trust's 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 the year, include the difference as part of its non-capital loss for the year. The trust can carry a non-capital loss back three years and forward seven years. To carry a non-capital loss back complete Form T3A, *Request for Loss Carryback by a Trust.* For more information about this form, see page 21.

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

The following chart will help you calculate the reduction in business investment loss. If the trust had more than one business investment loss in 1996, you can use this chart to calculate the trust's total reduction for 1996.

Reduction in business investment loss

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	________	x 2	=	________	1
Total eligible taxable capital gain amounts excluding eligible capital property designated by the trust in 1988 and 1989	________	x 3/2	=	________	2
Total deemed taxable capital gain amounts from eligible capital property designated by the trust in 1988 and 1989	________	x 4/3	=	________	3
Total eligible taxable capital gain amounts designated by the trust in 1990, 1991, 1992, 1993, 1994 and 1995	________	x 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 1995 (from the 1986 to 1995 trust returns)				________	6
Line 5 **minus** line 6				________	7
Business investment loss for 1996 before reducing the loss				________	8
Reduction in a business investment loss for 1996: Line 7 or line 8, whichever amount is less				________	9
Business investment loss for 1996: Line 8 **minus** line 9				________	10
Allowable business investment loss for 1996: Amount from line 10 x 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 1996. Enter this amount on line 113 of Schedule 1.

For more information, see 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, on line 40, a resource allowance of up to 25% of its resource profits (as determined under Regulations 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 and 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

You have to deduct trust expenses before income can be allocated to the beneficiaries. Apply the expenses directly to the income to which they relate. Apportion expenses that relate to more than one source of income to the applicable sources of trust income.

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 a beneficiary uses or occupies. 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 them in income for the year they are paid. On line 43, enter only those amounts that have been included in the expenses of the trust (whether on a financial statement or on 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 (e.g., 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 on 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 or designations to beneficiaries

On line 47, enter the total amount of trust income allocated or designated to beneficiaries from Schedule 9, line 928. 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

On line 49, enter the amount from Schedule 8, line 826. This amount reflects the gross-up of dividends retained or not designated by the trust.

Page 3 – Schedules and other information required

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

Question 9

If the answer is *yes*, see "Preferred beneficiary election" on page 39. 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 14

If the answer is *yes*, you have to file an election to amend the deceased person's individual income tax return for the year of death. See "Testamentary trust – 164(6) election" and "Testamentary trust – 164(6.1) election" starting on page 23 for more information.

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.

For details, see "Distribution of property to beneficiaries" on page 23.

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 the current year. Claim this amount on line 51.

If you claim a non-capital loss from a previous year, 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 or 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*.

To carry back an unused non-capital or farming and fishing loss, complete Form T3A, *Request for Loss Carryback by a Trust*. See page 21 for more information.

Line 52 – Net capital losses of other years
3, 38, 39, 104(21), 111(1)(b), 111(8)(a)

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 current taxation year (see "Form T3A, *Request for Loss Carryback by a Trust*" on page 21). The trust can deduct them as follows:

- net capital losses occurring before May 23, 1985:
  - from any net taxable capital gains in the current 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 current 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 subsequent year 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 LPP gains. 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, on line 108, or on line 8 of Form T1055, *Summary of Deemed Realizations*, if applicable. See "Listed personal property" on page 27.

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 Carryback by a Trust.*

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.

Form T3A, *Request for Loss Carryback 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 Carryback 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 income of 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. For example, apply a 1993 non-capital loss before a 1994 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 carryback to reduce the trust's income allocated to beneficiaries.

If you carry a net capital loss to a previous year, you cannot change the total amount of income you allocated to a beneficiary in that year. However, you may have to reduce the amount of taxable capital gain previously designated in that year. This is because you cannot apply more net capital loss than the net capital gain reported in any year, or designate more taxable capital gain than the trust reports as a taxable capital gain after the carryback.

If you apply a net capital loss carryback, a non-capital loss from business may be increased or created if the business loss was previously used to reduce the amount of taxable capital gain in the year of the carryback.

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.*

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 on line 525 of this schedule is claimed on 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 29.

Line 54 – Other deductions to arrive at taxable income

The trust can claim prior year losses, such as limited partnership losses and farm losses, on line 54. At this line, claim the $2,000 deduction allowed to a non-profit organization reporting income from property. 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 on line 55, subtracted from line 50, is the taxable income of the trust. If the amount on line 56 is more than zero, enter that amount on Schedule 11 on line 1101 (testamentary trusts) or line 1107 (inter vivos trusts).

If the amount that you calculate for line 56 is zero or less than zero, enter zero on line 56 but enter the actual amount on Schedule 12 on line 1221. This is necessary because if the amount on 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 49.

Step 5 – Summary of tax and credits – Lines 81 to 100

Line 85 – Tax paid by instalments ▲

If the trust made instalment payments or made payments before filing the return, enter the amount of these payments on line 85. If the account 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 on line 85.

Line 86 – Total tax deducted as shown on information slips ▲

If the trust earned income from which tax was deducted at source, enter the amount of tax deducted on 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.

If the trust was resident in Quebec and earned income outside Quebec during the year, tax may have been deducted for a province or territory other than Quebec. You can transfer, to the Province of Quebec, up to 45% of the income tax deducted by payers outside Quebec.

Subtract the transfer amount from total tax deducted and enter the result on line 86. Show this calculation, including the amount of transfer, in the space below line 86.

If the trust's taxable income on line 56 is zero, no transfer is necessary.

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.*

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

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

Line 91 – Refundable Northwest Territories tax credit ▲

If the trust reported net income from the Northwest Territories in the year, claim this refundable tax credit.

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 for the year from the Northwest Territories (if negative, enter zero)		A
Income included in line A which is exempt under a tax treaty (included on line 54 of the trust's T3 return)		B
Adjusted net income (line A **minus** line B; if negative, enter zero)		C

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

1996 rates

Adjusted net income	Credit
$12,000.00 or less	Enter 1.25% of the trust's adjusted net income on line D below
$12,000.01 to $48,000.00	$150 on the first $12,000, **plus** 1.0% of the adjusted net income over $12,000
$48,000.01 to $66,000.00	$510 on the first $48,000, **plus** 0.75% of the adjusted net income over $48,000
more than $66,000.00	Enter $645 on 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 on line 84 and your total credits on 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) who prepared this return

Complete this box 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

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 from line 122, the total taxable capital gains to line 01 of the T3 return. If the amount is a loss, see Form T3A, *Request for Loss Carryback by a Trust*, on page 21.

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*. For more information, see page 28. Do not report a deemed realization on Schedule 1.

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*.

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.

Proposed changes – From tax changes announced October 2, 1996

Any property (including certain taxable Canadian property), other than Canadian real estate, Canadian business property and inventory, pension and other similar rights, stock options, and certain property of short-term residents, distributed to a non-resident beneficiary after October 1, 1996, is deemed to be disposed of at the property's fair market value at that time. The trust or beneficiary may defer the payment of tax resulting from the deemed disposition by providing acceptable security. Contact your tax services office to arrange security.

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

The legal representative administering the estate can elect to transfer certain estate losses to the deceased person's income tax 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 for making the election. To make this election, attach a letter to the T3 return with a schedule of the estate's losses that are being transferred to the deceased.

The trust cannot claim losses that the legal representative has elected to transfer to the deceased. Any portion of the losses not transferred are subject to the usual 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 election.

You have to file this election and an amended final income tax return for the deceased person for the year of death, or a request to adjust that return by the later of:

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

Clearly identify the amended final income tax return of the deceased person as a **"164(6) election."**

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

> **Note**
> If the loss to be applied to the deceased person's final income tax return is known before that return is due to be filed, we will accept a claim for a subsection 164(6) election when the deceased's final income tax return is originally filed. Clearly identify the return as a **"164(6) election."**

> **Proposed changes – From tax changes announced December 14, 1995**
>
> If a capital loss from the disposition of shares of capital stock of a corporation arises before 1997, and the estate's first taxation year ends after April 26, 1995 and before 1997, the legal representative can elect to transfer the capital loss to the deceased individual's final income tax return, by filing a written election within six months of the month following the date the legislation receives Royal Assent.

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 (to a maximum penalty of $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 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 the deceased person paid 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, reduce the trust's adjusted cost base of the option by the amount of the loss determined above, [a) – b)], without considering c). You have to file this election and an amended final 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 final return for the year of death; and
- the filing deadline for 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 are 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.

The cost amount of a capital property (other than a depreciable property) is its adjusted cost base. The cost amount of a depreciable property is the proportionate share of the undepreciated capital cost of the class that the capital cost of the depreciable property is of the capital cost of all depreciable property of that class that was not previously disposed of. Normally, the capital cost of a depreciable property is limited to an amount less than fair market value where non-income producing depreciable property begins to be used to produce income, the income producing use of depreciable property increases, or where income producing property is acquired in a non-arm's length transaction. When calculating the proportionate amount, this limitation does not apply. In this case, the capital cost of the depreciable property will reflect its acquisition cost at fair market value.

When a **post-1971 spousal trust,** whose spouse beneficiary is still alive, distributes property such as 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.

Proposed changes – From tax changes announced on October 2, 1996

A trust which distributes any property (including certain taxable Canadian property), other than Canadian real estate, Canadian business property and inventory, pension and other similar rights, stock options, and certain property of short-term residents, to a non-resident beneficiary after October 1, 1996, is deemed to have disposed of such property for proceeds equal to the property's fair market value at that time. A trust or beneficiary can defer the payment of tax resulting from the deemed disposition by providing acceptable security. Contact your tax services office to arrange security.

A trust which ceases to be a resident of Canada after October 1, 1996, is deemed to have disposed of all property (including certain taxable Canadian property), other than Canadian real estate, Canadian business property and inventory, pension and other similar rights, stock options, and certain property of short-term residents, for proceeds equal to the property's fair market value at that time, and reacquired the property, at the same value, immediately thereafter. A trust can defer the payment of tax resulting from the deemed disposition by providing acceptable security.

A trust which ceases to be a resident of Canada at any time after 1995, and owns property with a fair market value more than $25,000 at that time, has to file a list of each property the trust owned at that time. You do not have to include personal-use property with a fair market value less than $10,000.

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. For more information, see the income tax guide called *Capital Gains*, and Interpretation Bulletin IT-456, *Capital Property – Some Adjustments to Cost Base.*

Proposed changes – From tax changes announced June 20, 1996

For 1994 and subsequent taxation years, new paragraph 53(1)(r) increases the adjusted cost base of each interest in, or share of, the capital stock of a flow-through entity by a pro rata portion of the amount of the unused exempt capital gains balance of the flow-through entity when the trust disposes of all interests in, and shares of, the capital stock of the entity.

For more information, see our income tax guide called *Capital Gains.*

Outlays and expenses

40(1)

Outlays and expenses are usually expenses incurred in 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 disposing of the property. You can use 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

Before 1972, capital gains were not taxed. 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.* 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 trust's capital gain or loss.

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

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

- 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 using 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. For more information, see Interpretation Bulletin IT-84, *Capital Property Owned on December 31, 1971 – Median Rule (Tax-Free Zone.)*

Valuation day value election

ITAR 26(7)

A trust can elect to use the valuation day value as the cost for all transactions instead of the median rule. Once this election is made, it will apply to most assets owned at the end of 1971, regardless of the year of disposition. Make this election on Form T2076, *Valuation Day Value Election for Capital Properties Owned on December 31, 1971.*

If there are no adjustments to the cost base, enter the median amount or the valuation day value in Column 3 of Schedule 1. 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.

Lines 101 and 102

Capital gains reported on lines 101 and 102 qualify for the $500,000 capital gains deduction when a spousal trust claims the deduction, or when you designate capital gains to an individual beneficiary. For more information, see "Footnotes for line 926 (and box 26)", and "Footnotes for line 930 (and box 30)" on page 41, and "Completing the T3 Supplementary slip" on page 54.

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*.

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 on 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 these types of loss, see "Line 25" on page 18.

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 thereof.

* For 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 on 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 that beneficiary's spouse, child, or parent, 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.

Line 103 – Other shares

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

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

Use this line to report gains or losses when the trust sells these types of properties. The trust may receive a T5008, *Statement of Securities Transactions*, or an account statement, showing details of the sale.

Also report at this line, gains or losses when the trust sells options. For information on disposing of options to sell or buy shares, see Interpretation Bulletins IT-96, *Options Granted By Corporations to Acquire Shares, Bonds, or Debentures, and by Trusts to Acquire Trust Units*, and IT-479, *Transactions in Securities*, and its Special Release.

Line 105 – Real estate and depreciable property

54(a), ITAR 20(1)

The trust can have a capital gain on non-depreciable property, often real estate, or 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. For more information, see "Real estate and depreciable property" in the income tax guide called *Capital Gains*.

For more information about the disposition of depreciable property owned on December 31, 1971, 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, the trust will usually be exempt from tax on any gain 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 that beneficiary's spouse, former spouse, or child. A 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.

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.

For more information, see Form T1079, *Designation of a Property as a Principal Residence by a Personal Trust* and 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, calculate the gain or loss on the sale of an item or set of items in the same way 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 are greater than 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 consecutive years. See "Listed personal property losses" on page 21.

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 30 and a footnote in the area below boxes 41 and 42. If this is the case, do not report these amounts on line 110. Instead, report the amount for qualified small business corporation shares on line 101, and report the amount for qualified farm property on line 102.

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" on page 18.

Line 114 – Capital gains reduction on flow-through entities

If the trust elected to report a capital gain on the trust's interest in, or shares of a flow-through entity owned on February 22, 1994, it may have 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 which were allocated to them at the time of the election.

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

Line 117 – Total amount of capital gain (or loss) from 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 the 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 1995, you have to bring it back into the trust's income in 1996. If any of the proceeds are payable after the end of the year 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*.

Line 122 – Total taxable capital gains

40(1)

Transfer from line 122, the total taxable capital gains 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 line 122.

Do not enter a loss on 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 carryback on or before the due date of the T3 return for the year in which the loss occurred. See "Form T3A, *Request for Loss Carryback by a Trust*" on page 21.

Capital gains deduction

110.6(12)

When the beneficiary spouse dies, you may be able to reduce the spousal trust's taxable capital gain. A post-1971 spousal trust reporting eligible capital gains can do this by claiming the unused portion of the beneficiary spouse's capital gains deduction. A pre-1972 spousal trust reporting a deemed realization on the death of the beneficiary spouse can also claim the unused portion of the beneficiary spouse's capital gains deduction, but only 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 on line 53 of the T3 return.

Records – Capital transactions

You will need to keep the records or vouchers that contain the information you use to calculate the trust's capital gains or capital losses for the year. You do not need to include these documents with the return, however keep them in case we ask to see them later.

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

Form T1055, *Summary of Deemed Realizations*

Deemed realization (disposition) – 21-year rule

104(4), (5), (5.1), (5.2)

On specified dates during the life of a trust, a trust is deemed to have disposed of its capital property, land inventory, and Canadian and foreign resource properties. 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.

In addition to the properties referred to above, if a post-1971 testamentary spousal trust holds a NISA Fund No. 2 that was 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. For more information, see "Line 10, – NISA Fund No. 2" on page 16.

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

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.

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;
- amount of tax on which the trust can elect to defer payment; and
- 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.

Generally, the deemed realization days for 1995 and subsequent years can be summarized as follows:

- For a spousal trust – the day the beneficiary spouse dies.
- For a trust which has elected to defer the deemed realization day – the first day of the first taxation year following the day the trust no longer has an exempt beneficiary.
- For other trusts – 21 years after the trust was created.

Subsequent deemed realizations will occur every 21 years on the anniversary of the day established above.

See "Pre-1972 spousal trust" and "Post-1971 spousal trust" on page 10 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 Retirement Compensation Arrangement trust;
- a trust whose direct beneficiaries are one of the above-mentioned trusts;
- a trust governed by an eligible funeral arrangement or a cemetery care trust;
- 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 provision applies primarily to those commercial trusts that do not qualify as unit trusts. It does not apply to:
  - a post-1971 spousal trust;
  - a trust that elects on 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.

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 it at your tax services 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 tax services office. For more information on this election, contact the General Enquiries service of your tax services office.

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

104(5.3)

A 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. For more information, see "Exempt beneficiary" on page 30.

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 taxation year, the trust's deemed realization day is postponed until the first day of the first taxation year following the year in which there is no exempt beneficiary. For example, if the trust has a year-end of June 30, and the exempt beneficiary dies on June 30, the trust's next deemed realization day is July 1, of the next calendar year.
- If the trust filed the election before March 1995, it can distribute trust property to 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 day the beneficiary spouse dies; or
  - on the second deemed realization that occurs 21 years after the beneficiary spouse dies; and
- available to other trusts on the first deemed realization day that occurs on the day that is 21 years after the trust was created.

This election applies only if the deemed realization day is before 1999. Capital property, land inventory, and resource property held on January 1, 1999, by a trust that previously elected to defer the deemed realization day, will be deemed to be disposed of on January 1, 1999, for proceeds equal to fair market value.

A trust that filed Form T1015, *Election By a Trust to Defer the Deemed Realization Day*, before July 1995, can apply in writing before 1997 for permission to revoke the election. In the request, identify the name and account number of the trust, and state if any of the property or beneficiaries of the trust have changed since the trust filed Form T1015. If they have changed, provide all details.

Do not attach the request to revoke Form T1015 to the *T3 Income Tax and Information Return*. Forward the request to:

Individual Programs Section
Client Services Directorate
Revenue Canada
400 Cumberland Street
Ottawa ON K1A 0L8

A trust that is granted permission to revoke its election will be deemed to have never made the election. The trust cannot file preferred beneficiary elections, or elect on Form T2223, *Election by a Trust to Defer Payment of Tax*, on the tax resulting from the revocation. Also, it will not be able to rescind the revocation and may be subject to interest on the necessary adjustments to prior year returns.

The beneficiary of a trust that is granted permission to revoke the election may be affected if the property the trust held on its deemed realization day was subsequently disposed of, and the resulting taxable capital gain was designated to the beneficiary. The beneficiary may also be affected if property was transferred to the beneficiary subsequent to the deemed realization day, or if the trust filed Form 94-115, *Election to Report a Capital Gain on Property Owned by a Personal Trust at the End of February 22, 1994*, for the property held on the deemed realization day.

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:

- an inter vivos trust's **designated contributor** (see definition which follows);
- 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
- 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 31.

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 the 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 for:

- an inter vivos or a testamentary spousal trust is the individual who created, or whose will created the trust;
- a non-spousal testamentary trust as of the end of the taxation year for which you make an election on Form T1015, is the individual whose death created the trust; and
- other trusts, is 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, 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 when throughout the relevant period, the property of the trust consisted primarily of:

- shares of the capital stock of a corporation controlled (when 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.

In determining if an individual is a designated contributor:

- **relevant period** refers to the period that begins one year after the day the trust was created and ends on the deemed realization day (if the election had not been filed);
- two 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 appointing an individual as a trustee of the trust, or acquiring or borrowing property to allow the individual to be a designated contributor.

Transfer of trust property

104(5.8)

If property is transferred from one trust to another, special rules apply to determine the deemed realization day.

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

- the transferor's deemed realization day that occurs after the transfer, if the transfer had not been made;
- the transferee's deemed realization day that occurs after the transfer;
- the day after the transfer, if the transferee had filed an election on Form T1015, and the new deemed realization day has not occurred; and
- 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 the trust had a previous deemed realization and has already had the opportunity to make such an election.

Summary of options available for deemed realization 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)**
Gains or losses from the deemed dispositions, taxed in the trust	yes	yes	yes
Elect to defer tax (Form T2223) – applies to 1993 and subsequent years	yes	yes	yes
Claim capital gains deduction, in the year in which the beneficiary spouse dies (Schedule 5)	yes	yes	no
Designate capital gains (Box 21 of T3 Supplementary slip)	no	yes	yes
Preferred beneficiary election	no	no	yes (no, if the trust previously made an election on Form T1015)
Elect to defer deemed realization day, if the 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

Note
Schedule 2 is not contained in this guide. However, you can get it from any of our offices, our Electronic Data Distribution System (EDDS), or the Internet.

When the trust sells capital property, it usually receives full payment at that time. However, you may have a situation where the trust sells property and it receives only 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, it can claim a reserve.

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

If you are completing Schedule 2, you will need the information from Schedule 2 to complete Schedules 1, 3, and 12.

Schedule 3 – Calculation of a Trust's Eligible Taxable Capital Gains
104(21), 104(21.1), 104(21.2), 104(21.3)

Note
Schedule 3 is not contained in this guide. However, you can get it from any of our offices, our Electronic Data Distribution System (EDDS), or the Internet.

Complete Schedule 3 if the trust is a personal trust that is:

- designating taxable capital gains from qualified farm property, qualified small business corporation shares, or reserves on these properties, to an individual beneficiary (T3 Supplementary slip, box 21); or
- a spousal trust claiming a capital gains deduction on Schedule 5.

If you complete this schedule, you have to also complete and submit Schedule 4, *Calculation of Cumulative Net Investment Loss.*

Lines 301 to 317 – Part I – Trust's annual gains limit for the year

110.6

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

Eligible capital gains include only gains from dispositions or deemed dispositions of qualified farm property or qualified small business corporation shares.

Lines 320 to 328 – Part II – Trust's cumulative gains limit for the year

110.6

Use Part II of Schedule 3 to calculate the trust's cumulative gains limit. See 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 the current year

You have to make an adjustment on line 323 if the trust claimed net capital losses of other years in a taxation year after 1984 and before 1992 if, in the taxation 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 will help you calculate this adjustment for line E on Schedule 3. If you have never made this calculation, you have to make the calculation in 1996, for all the years from 1985 to 1991.

Calculation for line E 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 "0")
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 line E of Part II on Schedule 3.

1. Net capital losses of other years claimed in the year—from Part I of Form T672, 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 carrybacks claimed in each year.
2. Reserves related to capital dispositions before 1985—from Schedule 2, prior-year reserve for 1985; from line 511 of Schedule 5 for 1986; from Schedule 5A, 1985 and prior net reserve (line 513 **minus** line 514) for 1987; from line 575 of Schedule 5C for 1988 and 1989; or from line 215 of Schedule 2 for 1990 and 1991.

Lines 330 to 334 – Part III – Trust's eligible taxable capital gains for the year
108(1)

The trust's eligible taxable capital gains for the year is the **lesser** of the trust's:

- annual gains limit for the year; and
- cumulative gains limit at the end of the year **minus** the total amounts of eligible taxable capital gains designated in previous years.

You will need the eligible taxable capital gains amount that you calculated on 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
110.6

Note
Schedule 4 is not contained in this guide. However, you can get it from any of our offices, our Electronic Data Distribution System (EDDS), or the Internet.

The 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 refer to income and expenses related to property including dividends, interest, and rental income.

Complete Schedule 4 for the year if the trust is a personal trust which has qualified farm property or qualified small business shares and is reporting any investment income or claiming any investment expenses and is:

- designating taxable capital gains from qualified farm property, qualified small business corporation shares, or reserves on these properties, 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 in the year the beneficiary spouse dies.

Trusts with qualified farm property or qualified small business corporation shares should complete this schedule each year and keep it with the trust's records. Do this even for years when the trust is not reporting capital gains or losses, and is not designating eligible taxable capital gains to its beneficiaries. The 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 on 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
110.6(12)

Note
Schedule 5 is not contained in this guide. However, you can get it from any of our offices, our Electronic Data Distribution System (EDDS), or the Internet.

Complete Schedule 5 for a spousal trust in the taxation year that the beneficiary spouse died and the trust is claiming the capital gains deduction. If the spousal trust is subject to the deemed realization rule, see "Form T1055, *Summary of Deemed Realizations*" on page 28.

If the spousal trust is claiming a capital gains deduction, you also have to complete Schedule 3, *Calculation of a Trust's Eligible Taxable Capital Gains.*

A **post-1971** spousal trust can claim a capital gains deduction on qualified farm property or qualified small business corporation shares in the taxation year the beneficiary spouse dies. The trust 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.

A **pre-1972** spousal trust can claim the capital gains deduction on qualified farm property or qualified small business corporation shares when reporting a deemed realization on the day the beneficiary spouse dies. The trust can claim this deduction if the trustee does not file Form T1015 to defer the deemed realization day. For more information, see "Form T1015, *Election by a Trust to Defer the Deemed Realization Day*" on page 29.

In its 1996 taxation year, a spousal trust, whose beneficiary spouse died in the trust's taxation year, may be able to claim the spouse's unused $100,000 capital gains deduction for:

- eligible taxable capital gains reported on information slips; or
- the trust's share of a partnership's taxable capital gain for the partnership's fiscal period that includes February 22, 1994.

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 7 – Statement of Pension Income Allocations and Designations

104(27) ▲

Complete this schedule if a testamentary trust is allocating pension income to beneficiaries and it wants the beneficiaries to have favourable treatment on their individual income tax returns for that pension income. You need the amounts from Schedule 7 to complete Schedule 9.

There are four columns on Schedule 7 to help you determine what pension income the trust can designate to beneficiaries and the reason for the designation.

Line 922 — Report on 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 on line 926.

Line 931 — Report on 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 entered on lines 922 and 926 cannot be more than the lesser of:

- the pension income you reported on line 02 of the T3 return; and
- the income before allocations on 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 14.

For more information about pension income, 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 ▲

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, include actual and deemed taxable dividends. Do not include non-taxable dividends, as explained under line 815, or capital gains dividends that you report on line 110 of 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.

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.

Lines 806 to 808 – Foreign investment income

Report investment income from foreign sources 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 reduce it by tax withheld at source.

Lines 809 to 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 on line 805, capital gains dividends you reported on 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

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

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 later disposes of the shares.

If the trust pays out non-taxable dividends to its beneficiaries, 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.

Lines 816 to 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 826 – Part B – Calculating 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 on line 805 and that the trust retained. The gross-up rate for dividends received in the 1996 taxation year is 25% of the dividends received.

The gross-up does not apply to taxable Canadian dividends received by the trust to the extent that such dividends are allocated to a non-resident beneficiary under the trust.

Enter dividends allocated to non-resident beneficiaries on line 824, "Dividends allocated to non-resident beneficiaries but **not** designated."

Line 821 – Total dividends reported before applying expenses

Transfer from line 805, the actual amount of dividends from taxable Canadian corporations.

Line 822 – Dividends designated to beneficiaries
104(19)

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

Line 824 – Dividends allocated to non-resident beneficiaries
82(1)

Transfer the amount of net dividends, after related expenses, included in Column II, line 926 of Schedule 9. If the dividends have been allocated to non-resident beneficiaries on line 923, do not include them on line 824.

Line 826 – Gross-up amount of dividends retained or NOT designated by the trust
82(1)(b)

Multiply the amount on line 825 by 25% to calculate the amount you have to enter on line 826. 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.

Transfer this amount to:

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

Claim the carrying charges that relate to dividends on line 819 of this schedule.

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

Schedule 9 – Summary of Income Allocations and Designations to Beneficiaries ▲

Complete this schedule if the trust is allocating income to beneficiaries. You also have to complete T3 Supplementary slips and a T3 Summary form if you are allocating income to resident beneficiaries, or NR4 Supplementary slips and an NR4 Summary form if you are allocating income to non-resident beneficiaries.

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

In this guide and on the T3 return we use:

- **allocated** and **allocation** to refer to amounts deducted from the income of the trust on line 47, and that are included in the beneficiary's income;
- **allocation** to refer 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** to maintain the identity of allocated amounts according to special provisions of the *Income Tax Act*. Generally, you report amounts designated to a beneficiary in the appropriate box on the T3 slip. This allows the beneficiary to take advantage of some deduction or credit that applies to that income (such as the capital gains deduction or dividend tax credit).

If the trust could only allocate but not designate amounts to the beneficiary, you would need only one income box on the T3 slip. You would have to show all the allocated income on Schedule 9, line 926, and report it in box 26 on the T3 slip.

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

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

Use Part B of Schedule 9, and boxes 30 to 42 of the T3 slip to provide more information about 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-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, except in the following situations:
  - 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)

  Trusts, except employee trusts, employee benefit plans, segregated fund trusts, communal organizations and non-profit organizations, that are 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. We describe the proportionate share formula under the next heading in this chapter.

  You can 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 carryforward to absorb the current year taxable capital gain.

Generally, amounts designated under subsections 104(13.1) and 104(13.2) will reduce the adjusted cost base (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, the trust 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 these formulas 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

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) the beneficiaries would otherwise report)

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.

Therefore, using examples 2 and 3, the total retained in the trust would be $3,000. The total designations to beneficiaries would be:

	Beneficiary X	Beneficiary Y
Subsection 104(13.1)	$ 500	$ 500
Subsection 104(13.2)	$1,000	$1,000
Reported by beneficiaries	$2,500	$2,500

Part A – Total income allocations and 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 12.

The allocation 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 **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. Any amounts allocated to a beneficiary on lines 921 to 926 are deducted from the trust's income. These amounts are included in the beneficiary's income in boxes 21 to 26 on the T3 slip.

If you deducted expenses on line 41 of the T3 return, you have to apply them against specific types of income before the trust can allocate 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 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 and designates the different types of income paid or payable to **resident** beneficiaries, as well as any taxable benefits to be allocated to these beneficiaries. If the income is allocated, but no amounts are designated, you should enter the allocated amount on 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, such as taxable capital gains and taxable dividends from taxable Canadian corporations lose their identity when you allocate them to non-resident beneficiaries. Report the total of the amounts in column II as estate or trust income on a NR4 Supplementary, *Statement of Amounts Paid or Credited to Non-Residents of Canada*, not on a T3 slip.

Most amounts paid or payable to non-resident beneficiaries are subject to a Part XIII withholding tax. See "Non-resident beneficiaries" on page 45. Transfer the total of column II to line 1020 of Schedule 10, Part XIII, "Non-resident withholding tax."

If you distribute 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 42.

By preferred beneficiary election Column III, lines 921, and 923 to 926 Box 21, and boxes 23 to 26

104(14), 108(1), Regulation 2800

A trust and a preferred beneficiary can jointly elect to have the trust's accumulating income taxed in the hands of the preferred beneficiary. Use column III to allocate and designate that elected accumulating income. Complete a separate T3 slip for this 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 election" under the next heading.

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, include it in the beneficiary's hands as other income (line 926).

For the definition of **preferred beneficiary**, see page 14.

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 elected

amount. The elected amount must not be more than the preferred beneficiary's share of the accumulating income.

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 realization of property under subsections 104(4), 104(5), 104(5.2), and 107(4), or for which a trust has previously filed a subsection 104(5.3) election for those sources of income. For more information, see the heading "Deemed realization (disposition) – 21-year rule" on page 28, or;
- 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.

Note
Accumulated income is calculated as if the maximum deductible for the year under subsection 104(6) is claimed. If the trust is a post-1971 spousal trust and the beneficiary spouse died in the trust's taxation year, calculate the trust's accumulating income for the year as if there was also no disposition of capital property, land property in inventory, or resource property, before the end of the day the beneficiary spouse died.

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 29.

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 the 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.

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. 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, the trust 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 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 – Taxable 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 on year **is more than** the total of:

- the trust's allowable capital losses for the taxation year; and
- net capital losses of other years 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 designated in the current year				
Taxable capital gains **minus** allowable capital losses (from line 122, Schedule 1 and line 25, Form T1055)			$ ______	1
Net capital losses of other years deducted in the current year (line 52, page 4 of the T3 return)			$ ______	2
Net taxable capital gains of the current year (line 1 **minus** line 2)			$ ______	3
Any expenses the trust incurred to earn income included on line 1	$ ______	4		
Amounts designated under subsection 104(13.2) to be taxed in the trust, other than amounts for which a deduction has been claimed on line 52*	$ ______	5		
Line 4 **plus** line 5			$ ______	6
Line 3 **minus** line 6			$ ______	7
Amount from line 46, page 2 of the T3 return			$ ______	8
Net taxable capital gains designated in current year (this amount cannot be more than the lesser of lines 7 and 8)			$ ______	9

Transfer the designated amount to line 921 on Schedule 9.

* If the trust chooses to reduce its current-year taxable capital gains with a non-capital loss carryforward according to subsection 104(13.2), you have to reduce the net taxable capital gain you designate to a beneficiary accordingly. See "Designated income to be taxed in trust" on page 37.

If you complete line 921, you also have to complete line 930 if you are allocating capital gains eligible for deduction. The only taxable capital gains eligible for deduction are from the disposition of qualified farm property and qualified small business corporation shares.

The trust may have disposed of foreign property and is designating the capital gains to a beneficiary. Although the beneficiary reports this as a capital gain, the gain can be considered foreign non-business income when the beneficiary calculates a foreign tax credit for foreign taxes paid. Show the taxable portion of the amount included on line 921-3 from the disposition of foreign property, as a footnote to box 21 on the beneficiary's T3 slip.

Line 922 – Lump-sum pension benefits ▲

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

A testamentary trust can designate certain pension benefits, superannuation benefits, and amounts received from a deferred profit-sharing plan to a beneficiary. Enter on line 922, those amounts from Schedule 7 that are eligible for a paragraph 60(j) transfer to a registered pension plan or a registered retirement savings plan.

Line 926 – Other income ▲

Enter on line 926, all income distributed to beneficiaries that is not shown on 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.

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 on line 926 and show the amount eligible for transfer on 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 9.

Footnotes for line 926 (and box 26)

Enter on line 926-1, the amount of business income, reported in box 26, from the disposition of eligible capital property that is qualified farm property eligible for the capital gains deduction.

A communal organization should show on 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.

Line 928 – Total ▲

The total of lines 921 to 926 is the income allocated or designated to the beneficiaries. The amount cannot exceed "trust income before allocations" on 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)

A personal trust that makes the designation on line 921 and has eligible taxable capital gains also has to designate a portion of the trust's eligible taxable capital gains to the beneficiary for the beneficiary's capital gains deduction.

Calculate the trust's eligible taxable capital gains on Schedule 3, line 334. Enter on line 930, the amount you determined on lines 921, or line 334 minus the amount on line 926-1, whichever is less.

Footnotes for line 930 (and box 30)

The eligible taxable capital gains for each beneficiary for qualified farm property is the lesser of the:

- taxable capital gains from qualified farm property; and
- taxable capital gains eligible for deduction.

The eligible taxable capital gains for each beneficiary for qualified small business corporation shares is the lesser of the:

- taxable capital gains from qualified small business corporation shares and;
- taxable capital gains eligible for deduction **minus** the taxable capital gains from qualified farm property.

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 35 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 the claim that the trust paid foreign non-business income tax, or that it was withheld from foreign non-business income the trust earned.

The portion 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*, and IT-201, *Foreign Tax Credit – Trusts and Beneficiaries*, and the "Federal foreign tax credit" section on page 47.

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, 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 individual income tax returns.

If you deduct the eligible death benefit from the trust's income, then only the taxable portion flows out to the beneficiary. Make sure that you report only the taxable portion of the death benefit on line 19 of page 2 of the T3 return. Also complete only box 26 (not box 35) on the T3 slip. See "Line 19 – Other income" on page 17.

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 or QPP death benefits are not eligible for the $10,000 exemption. Do not include them in box 35 on the T3 slip.

Line 936 – Miscellaneous ▲

60(j.1), 60(l), 143(3.1)

On line 936-1, enter any designated pension income eligible for a paragraph 60(l) transfer. On line 936-2, enter any retiring allowance eligible for a paragraph 60(j.1) transfer. On line 936-3, enter charitable donations designated to the beneficiaries of a communal organization.

Line 937 – Insurance segregated fund capital losses

138.1(3)

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

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 income on 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. You have to reduce the trust's investment tax credit by any amount allocated to beneficiaries under subsection 127(7).

On 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. Report each beneficiary's share in box 40, "Investment eligible for ITC," of the beneficiary's T3 slip.

On 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 on 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 54 for more information.

Schedule 10 – Calculation of Part XII.2 Tax and Part XIII Non-Resident Withholding Tax

Part A – Calculating 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 this tax. You have to pay any Part XII.2 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 described in paragraph (a) of the definition "trust" in subsection 108(1) such as a trust governed by a deferred income plan;
- 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, or loss, from businesses carried on in Canada;
- net income, or loss, from real properties located in Canada, for example, land or buildings;
- net income, or loss, from timber resource properties;
- net income, or loss, from Canadian resource properties the trust acquired after 1971; and
- taxable capital gains, or allowable capital losses, from dispositions of property described as taxable Canadian property.

  Note

  Although **designated income** is used in Part XII.2 of the *Income Tax Act*, we use **specified income** in this guide and on Schedule 10 to avoid confusion with designated income used in other parts of this guide.

Designated beneficiary

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

- non-resident person;
- non-resident-owned investment corporation;
- trust, other than a testamentary trust, a mutual fund trust, or trust exempt from tax under subsection 149(1), resident in Canada whose beneficiaries include a designated beneficiary;
- partnership whose members include a designated beneficiary; or
- 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

  A person exempt from Part I tax is not a designated beneficiary if:

  - after either October 1, 1987, or 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 the trust paid. This means that you will generally not complete box 38 on the T3 slip for a designated beneficiary who is a Canadian resident. Also, 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. For more information, see the comments under "Line 1009" on page 44.

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 in the income allocated to the beneficiary, an amount equal to the Part XII.2 tax credit. In effect, the credit 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 on line 1006 is negative, Part XII.2 tax does not apply.

Line 1007 – Adjusted amount allocated or designated to beneficiaries

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

Part XII.2 tax does not apply to the value of other benefits to recipients you reported on line 44 of the T3 return, or to the total amount in column III of Schedule 9.

The total on line 1007 represents the following provisions of the *Income Tax Act*:

- the subsection 104(6) deduction from trust income for the portion of the trust's income 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.

Withhold the Part XII.2 tax from income you distribute to the beneficiaries and remit it to the Receiver General for Canada. Part XII.2 tax ensures that designated beneficiaries pay their share of taxes on specified income. The total of Parts XII.2 and XIII tax is approximately equal to the Part I tax, plus provincial or territorial taxes that would apply to specified income if the designated beneficiaries earned it directly.

Eligible beneficiaries will receive refundable tax credits for their share of the tax. For information about calculating the refundable tax credit, see line 1010 on page 44.

Line 1008 – Part XII.2 tax

Multiply the lesser of the amounts on line 1006 or line 1007 by 36%. The result 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.

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

Paragraph 210.2(1)(a) refers to the specified income on 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 to beneficiaries under subsection 104(6), before calculating Part XII.2 tax. This grossed-up amount is equal to the adjusted amount on 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

On line 1009, calculate the amount of Part XII.2 tax you 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 (line 1008);

B = each eligible beneficiary's share of the amount from line 1007 (the trust income you allocated to the eligible beneficiaries); and

C = total allocations or designations for the year (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 the year includes net business income of $1,000, and net interest income of $400.

On Schedule 10, Part A, "Calculation of Part XII.2 tax and refundable Part XII.2 tax credit," you would:

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

Adam received $520, but he will include $700 ($520 + $180) in his income for the year. This amount, which you enter in box 26 on the T3 slip, is the 50% portion of the trust income that you distribute to him under the terms of the trust agreement. On his individual income tax return for 1996, he will claim a refundable Part XII.2 tax credit of $180.

Meg received $520. This amount, which you enter on the NR4 Supplementary, is the 50% portion of the trust income that you distribute to her under the terms of the trust agreement. On Schedule 10, reduce the total income paid or payable to non-resident beneficiaries (line 1020) by the Part XII.2 tax (line 1026). Line 1028, the difference, ($700 − $180 = $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 1025 – Amounts not subject to Part XIII tax – Other

One example of an adjustment you have to enter on this line is an amount you paid or credited to a beneficiary resident in the United States, when the amount is derived from income sources outside Canada and the amount is not subject to withholding tax under the *Canada – U.S. Tax Convention*.

Line 1026 – Part XII.2 tax amount

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

You have to deduct the Part XII.2 tax here because the total amount in column II, line 928, of Schedule 9, includes income under subsection 104(31), which is Part XII.2 tax, and 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 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 Revenue Canada or by a Canadian financial institution on or before the 15th day of the month after the month during which the tax was withheld.

Calculate the amount of non-resident tax payable and any balance due by following the steps in Part B of Schedule 10. You should send any balance due to us, with 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 trust's name and address, the type of payment, for example 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 Form NR4 Summary, *Return of Amounts Paid or Credited to Non-Residents of Canada*, and Form NR4 Supplementary, *Statement of Amounts Paid or Credited to Non-Residents of Canada.*

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

Completing the NR4 return

The *Guide for Filing the NR4 Return* outlines procedures for reporting amounts the trust paid or credited to non-residents of Canada, and explains how to complete and distribute the NR4 return.

Report as estate and trust income, the total trust income you allocated to a non-resident beneficiary. Income items, except for taxable capital gains from a mutual fund trust, lose their identity when allocated to a non-resident beneficiary. Therefore, you have to total and report them as "estate or trust income" in box 16 of the NR4 Supplementary slip.

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

Schedule 11 – Calculation of Federal Income Tax ▲

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Line 1101 – Testamentary trusts ▲

Federal income tax rates for individuals apply to all testamentary trusts.

The individual rates also apply to inter vivos trusts, other than mutual fund trusts, that:

- were established before June 18, 1971;
- were resident in Canada on June 18, 1971, and without interruption until the end of the taxation year;
- did not carry on any active business in the taxation year;
- have not received any property by way of gift since June 18, 1971; **and**
- after June 18, 1971, have 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 – Lump-sum payments ▲

Income Tax Application Rules (ITAR) 40

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

Line 1111 – Federal dividend tax credit ▲

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

The dividend tax credit is 66.67% (2/3) of the grossed-up amount you calculated on line 826 of Schedule 8.

Proposed changes – From tax changes announced on April 26, 1995

For taxation years ending after April 26, 1995, the gross-up does not apply to taxable Canadian dividends that a trust received if such dividends are allocated to a non-resident beneficiary under the trust.

Line 1112 – Charitable Donations ▲

118.1 or 104(6)

Proposed changes – From tax changes announced on March 6, 1996

For 1996 and subsequent taxation years, the limit for charitable donations is increased to 50% of net income plus 50% of the taxable capital gains reported from the gifting of capital property in the year, minus any capital gains deduction claimed on that property.

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 individual income tax return, either in the year of death or in the year before the year of death. If necessary, we will reassess the individual returns to allow the claim.
- If the donation is not a one-time payment, for example donations that 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 on line 47 on page 2 of the T3 return. You also have to include the donation on 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 on line 47 of the T3 return, or claim a non-refundable tax credit on 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 on line 47 on page 2 of the T3 return, and include it on the appropriate line of Schedule 9.

In all other cases, calculate a non-refundable tax credit for the donation on line 1112 on Schedule 11.

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

- Charitable donations – See the *General Income Tax Guide* for types of organizations that are included in this class.
- Gifts to Canada, a province, or a territory.
- Gifts of cultural property – Attach both the official receipt from the institution and the T871 certificate the Canadian Cultural Property Export Review Board issues.
- Gifts of ecological property – Attach both the official receipt and the certificate called *Certificate for Donation of Ecologically Sensitive Land,* which the Minister of the Environment issues.

Maximum claim and carryover

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 50% of the trust's net income you entered on line 50 on page 4 of the T3 return, plus 50% of the taxable capital gains resulting from the gifting of capital property in the year, minus any capital gain deduction claimed on that property. The 50% of net income limit does not apply to gifts to Canada or to gifts of cultural or ecological 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 and elect to designate its donations to beneficiaries in the same proportion that it allocates income to those beneficiaries.

Line 1113 – Minimum tax carryover from previous year

120.2

If the trust paid an amount of minimum tax in the 1989 to 1995 taxation years, and does not have to pay minimum tax for the 1996 taxation year, you can deduct part or all of that amount from 1996 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 carryover.

Note
You can carry over minimum tax from the seven previous taxation years. You have to apply the oldest available carryover first, for example, you have to apply any carryover from 1989 before the carryover from 1990.

Calculating minimum tax carryover

Minimum tax carryover from previous years which can be applied in 1996

Minimum tax carryover balance at the end of 1995 (from 1995 Schedule 12, line 1269, or from line l of this table for 1995)		$______	a
Minimum tax carryover from 1988 not used before 1996		$______	b
Minimum tax carryover available (line a **minus** b)		$______	c
Tax payable immediately before minimum tax carryover (1996 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 1996 Schedule 12, line 1232)	$______ i		

Maximum amount of minimum tax carryover which you can apply in 1996

Line h **minus** line i .... $______ j

Minimum tax carryover from previous year, applied in 1996

Claim an amount not more than the lesser of c or j .... $______ k

Transfer this amount to Schedule 11, line 1113.

Minimum tax carryover available for 1997

Line c **minus** line k .... $______ l

Include a copy of this calculation with the T3 return when you claim a minimum tax carryover. 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. However, business income the trust earned in a province or territory through a permanent establishment in Canada is subject to provincial tax instead of this surtax.

If you need more information, see Form T2203, *Calculation of Tax for 1996 – Multiple Jurisdictions*, and Form T691A, *Minimum Tax Supplement – Multiple Jurisdictions.*

Line 1118 – Federal foreign tax credit

126, 20(11), (12)

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 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 the trust 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, on line 1125 of Schedule 11 as an "Additional federal foreign tax credit." For details of all these calculations, see Form T2209, *Calculation of Federal Foreign Tax Credits.*

An excess amount of foreign business income tax is called unclaimed foreign tax credit. A trust can carry these unclaimed credits 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 on line 40, on page 2 of the T3 return; or
- an additional foreign tax deduction against the individual surtax otherwise payable.

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

When you calculate the foreign tax credit, convert all amounts to 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, base the calculation of the credit 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 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 this page and enter the credit on line 1119. If total federal political contributions are $1,150, or more, enter $500 on line 1119. Attach proof of the contribution 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 that are more than $550	$______	c
Total allowable credit—(add lines a, b, and 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)*. For example, a trust can earn these credits 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 the taxation year;
- is carrying forward a credit;
- is carrying back a credit; or
- is claiming a refundable ITC in the taxation year (on 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
- acquired the asset if it:
  - made the claim or refund in the year of acquisition; or
  - applied the claim to a previous year.

For example, the capital cost of property is reduced in 1996 by any ITC which the trust earned in 1995, and which was claimed or refunded on the 1995 return or applied to a previous year.

Only testamentary trusts or communal organizations can designate an ITC to beneficiaries. When you calculate the trust's ITC for the taxation year, you cannot include on line 941 of Schedule 9, the part of the ITC which is designated according to the terms and conditions of the trust agreement or by choice of the trustee. Reduce the cost of the qualified property acquisitions or expenditures by the amount of any ITC that you designated to the beneficiaries in the taxation year. 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* and Information Circular 78-4, *Investment Tax Credit Rates*, and its Special Release.

Line 1121 – Other credits

Examples of credits you can claim at this line are:

- federal logging tax credits; and
- federal mining tax credits.

Lines 1124 to 1128 – Individual surtax ▲

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 line 1115 of Schedule 11, or, if subject to minimum tax, on line 1242 of Schedule 12.
- for a mutual fund trust:
  - the basic federal tax on line 1115 of Schedule 11, 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 its 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 calculate on Form T2209, *Calculation of Federal Foreign Tax Credits.*

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

- If the amount on line i in Part II of Schedule 12 is more than the amount on line (E) in Part I of Form T2209, then no more federal foreign tax credit is available to reduce the individual surtax payable. In this case, enter "0" on line 1125 of Schedule 11 or, if the trust is subject to minimum tax, on 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 lesser of the following amounts:

- the unused investment tax credit you determine on line E of Form T2038(IND); and
- the amount by which the individual surtax payable, on line 1126 of Schedule 11 or on line 1252 of Schedule 12, is more than the additional federal foreign tax credit on 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 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 for 1996 – 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
- resided outside Quebec and had income from a business with a permanent establishment in Quebec.

Schedule 12 – Calculation of Minimum Tax
127.5 to 127.55

Note
Schedule 12 is not contained in this guide. However, you can get it from any of our offices, our Electronic Data Distribution System (EDDS), or the Internet.

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 its first deemed realization under the 21-year rule.

Proposed changes – From tax changes announced on June 20, 1996

For 1992 and subsequent taxation years, trusts prescribed to be master trusts, are not subject to minimum tax.

Any other trust is liable to pay a minimum tax if the net minimum tax payable on line 1234 of Schedule 12 is more than the regular tax payable, on line 1237 of that schedule. A trust may have to pay minimum tax for the year if it:

- 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 claims 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 :
  - rental or leasing property (on page 2, line 09); or
  - certified films or videotapes (on page 2, line 06).

Proposed changes – From tax changes announced on June 20, 1996

For taxation years beginning after 1994, net adjusted taxable income for minimum tax purposes is extended to apply to:

- certain losses that limited partners, specified members of a partnership, or partners of a tax shelter deduct for their partnership interest. For this purpose, losses allocated from a partnership are netted against gains from the same partnership source;
- tax shelters; and
- carrying charges for interests in limited partnerships, tax shelters, rental and leasing, film, and resource properties which increase or create a loss from these sources.

Net adjusted taxable income for minimum tax
Use Part I of Schedule 12 to calculate the net adjusted taxable income for minimum tax. 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 and carrying charges.

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 45);
- the grossed-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 on 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

On this line include the amount of taxable capital gains you designated to beneficiaries on 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 from mortgage foreclosures and conditional sales repossessions.

To calculate the taxable capital gains on line 122 of Schedule 1, you have to make an adjustment if you reported a capital gains reserve on line 117 of Schedule 1, that relates to a disposition before 1986. 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

Calculating the non-taxable portion of capital gains you reported and retained in the trust for 1996 (to exclude capital gain reserves relating to dispositions of capital property before 1986)

Taxable capital gains: An amount equal to 1/3 of line 122, 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). Transfer this amount to line 1203 of Schedule 12		$	g

Line 1221 – Taxable income

On line 1221, enter the taxable income amount from line 56 on page 4 of the T3 return. If the amount you calculated on line 56 is zero or less than zero, enter the actual amount on 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 on line 51 on page 4 of the T3 return, you may have to reduce the non-capital losses for minimum tax purposes. This reduction is any portion of the non-capital losses attributable to:

- capital cost allowance you claimed on:
  - rental or leasing property; or
  - films certified by the Canadian Film and Videotape Certification office;
- resource expenditures; or
- resource and depletion allowances.

Add back the portion back on line 1222.

Proposed changes – From tax changes announced June 20, 1996

For taxation years beginning after 1994, for minimum tax purposes, a non-capital loss which is carried forward is calculated according to the minimum tax rules in effect for the year in which the loss was incurred.

Line 1224 – Net capital losses of other years used in current year
127.52(1)(i)(ii)

> **Proposed changes – From tax changes announced June 20, 1996**
>
> For taxation years beginning after 1994, in which a loss from **any** other year is claimed, the taxable income for minimum tax purposes is adjusted to reflect the non-deductible portion of the capital loss.

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 reflect 100% of those capital losses.

On line 1224, enter one-third of the net capital losses of other taxation years beginning after 1985 that you claimed in the current year on 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*. For more information, see "Line 1101" on page 45.

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
Mr. Cee is an individual who created five trusts. 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 would 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 of this guide for details.

If we request, in writing, an agreement allocating the $40,000 exemption, and you do not send us 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

For information, see "Lines 1124 to 1128" on page 48.

Line 1256 – Refundable Quebec abatement

For information, see "Line 1130" on page 49.

Lines 1260 to 1269 – Part VI – Calculation of additional taxes paid for minimum tax carryover

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 on line 1113 of Schedule 11 in subsequent years. A carryforward is permitted for a period of seven years.

Schedules 13 and 14 – Provincial or Territorial Income 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 a 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 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 have 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.

Allocate income from a business for each province, territory, or foreign country in which the business had a permanent establishment during the taxation year. Attach a copy of this allocation to the T3 return. 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.

A trust resident in a province, other than Quebec, or a 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.

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 on line 1116 of Schedule 11 on the Canadian business income if the income is not exempt from Part I tax in Canada because of an income tax treaty.

Provincial surtax rate changes

Provincial tax rates changed in 1996 for Ontario and British Columbia. The income thresholds in the calculation of British Columbia surtax also changed. A Newfoundland high-income surtax applies for 1996. The Ontario surtax was replaced in 1996 by the Ontario Fair Share Health Care Levy. The calculation for the Ontario tax reduction also changed in 1996.

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;
- constituency association of that province or territory; or
- candidate seeking election to the legislature of that province or territory.

You have to attach to the T3 return, proof of payment in the form of an official receipt signed by the chief financial officer of the registered party, constituency association, or candidate.

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 on the appropriate lines of the provincial or territorial schedule.

Line 1345 – Ontario tax reduction

If the trust has to pay minimum tax, calculated on Schedule 12, it is not entitled to claim an Ontario tax reduction on line 1345 of Schedule 13.

Line 1403 – Net income tax (Manitoba)

Generally, you apply the 2% tax on line 1403 to an amount that is the trust's net income that you determined on line 50 on page 2 of the T3 return. If you deduct any foreign income that is exempt from tax because of a tax convention on line 54, then you should deduct the same amount from line 50, "Net income," before you calculate the tax on line 1403.

A mutual fund trust that is subject to only the net income tax on 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 mutual fund trust income tax credit

For 1988 and subsequent taxation years, mutual fund trusts can deduct an amount from tax equal to the least of:

- the net Manitoba tax on line 1407 of Schedule 14 minus the Manitoba capital gains refund on line 55 of Form T184, *Calculation of Capital Gains Refund for a Mutual Fund Trust*;
- 4% of the grossed-up amount of dividends retained by the trust on line 49 of the T3 return; and
- any unused federal dividend tax credit on line 1111.

Enter the amount on line 1410.

Line 1412 – 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 earned in Manitoba.

You can claim a maximum amount on line D 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

If you deduct any foreign income that is exempt from tax because of a tax convention on line 54, then you should deduct the same amount from line 50, "Net income," before you calculate the flat tax on line 1421.

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 on line 1430 of Schedule 14.

If the trust has a Saskatchewan Labour-Sponsored Venture Capital Tax Credit, you can claim it on this line. Attach a copy of Form T2C(Sask).

In the space beside line 1430, indicate the type of incentive or rebate, described above, that you are claiming.

If the trust is a communal organization and makes the appropriate election, you can designate to its members (beneficiaries), the Saskatchewan livestock investment tax credit (line 943 of Schedule 9) and the Saskatchewan livestock facilities tax credit (line 944 of Schedule 9).

Line 1444 – Alberta royalty tax rebate

If 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 during the taxation year, 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)*. Attach the completed form to the T3 return. Enter on line 1444 of Schedule 14, the Alberta royalty tax rebate which you calculated on Form T79.

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 on line 1462 of Schedule 14, the rebate you determined on Form T81.

Chapter 5 – T3 Supplementary and T3 Summary ▲

The trustee has to complete a T3 Supplementary, *Statement of Trust Income Allocations and Designations*, for each resident beneficiary, including a preferred beneficiary who elects to be taxed on accumulating income of the trust, to whom the trust allocated amounts in the year.

There are two formats of the T3 Supplementary slip. They are a:

- three copy carbon-loaded form in continuous-feed format; and
- single-copy format for laser printers.

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. However, if you allocate an amount to a beneficiary, you have to notify that beneficiary of the amount allocated to them. The beneficiaries have to report all allocated amounts as income, even if they do not receive a T3 Supplementary slip.

Use the T3 Summary, *Summary of Trust Income Allocations and Designations*, 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 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 taxation year ends of December 31.

If you are a magnetic media filer, you have to send us a tape, cartridge, or diskette before the filing deadline. You do not have to send the paper copy of the T3 Summary or T3 Supplementary slips.

Anyone who would like to participate in the magnetic media filing program for the first time has to submit a test tape, cartridge, or diskette for our approval. Send the test tape, cartridge, or diskette at least two months before the filing deadline. The tape, cartridge, or diskette has to meet the specifications for the year of filing.

For specifications and more information, see the booklet called *Computer Specifications for Data Filed on Magnetic Media T5, T5008, T4RSP, T4RIF, NR4, and T3* (T4031). To obtain this booklet or to find out more about this method of filing, write to:

Magnetic Media Processing Unit
Ottawa Tax Centre
875 Heron Road
Ottawa ON K1A 1A2

You can also telephone 1-800-665-5164.

 to put report code 1 in box 16. Distribute and file the

Canadian corporation. This portion is 5/4 of 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.

> **Note**
> If you are completing boxes 33 or 34, identify each foreign country and the amount of business or non-business income tax for each country in the footnotes area below boxes 41 and 42.

Box 35 ▲

Enter the beneficiary's designated portion of death benefits. See "Line 935" on page 42. 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 slip for each item.

Box 37

Transfer from line 937 of Schedule 9, 4/3 of the beneficiary's designated portion of allowable capital losses from insurance segregated fund trusts. Do not enter allowable capital losses from insurance segregated funds in box 21.

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 42.

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 42, and "Line 1120" on page 48.

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 42, and "Line 1120" on page 48.

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 line 943 of Schedule 9. See "Lines 1430 to 1432" on page 53; and
- Saskatchewan livestock facilities tax credit (SLFTC) from line 944 of Schedule 9. See "Lines 1430 to 1432" on page 53.

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.

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.

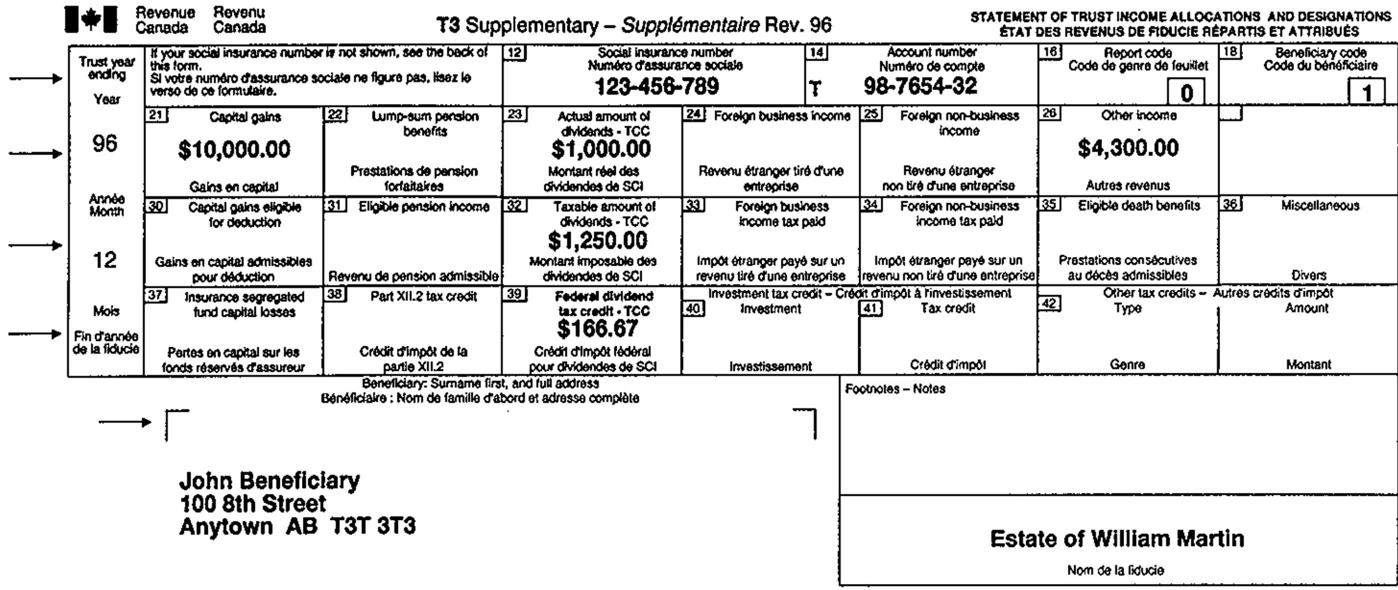
If you use the T3 Supplementary slip for laser printers, see the instructions on the back of the form.

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
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

The trust has one resident beneficiary and all income is allocated or designated to the beneficiary.
Complete the T3 Supplementary as follows:



Revenue Canada / Revenu Canada

T3 Supplementary – *Supplémentaire* Rev. 96

STATEMENT OF TRUST INCOME ALLOCATIONS AND DESIGNATIONS
ÉTAT DES REVENUS DE FIDUCIE RÉPARTIS ET ATTRIBUÉS

Trust year ending / Fin d'année de la fiducie: Year / Année 96; Month / Mois 12

If your social insurance number is not shown, see the back of this form. / Si votre numéro d'assurance sociale ne figure pas, lisez le verso de ce formulaire.

Box	Description	Amount
12	Social insurance number / Numéro d'assurance sociale	123-456-789
14	Account number / Numéro de compte	T 98-7654-32
16	Report code / Code de genre de feuillet	0
18	Beneficiary code / Code du bénéficiaire	1
21	Capital gains / Gains en capital	$10,000.00
22	Lump-sum pension benefits / Prestations de pension forfaitaires	
23	Actual amount of dividends - TCC / Montant réel des dividendes de SCI	$1,000.00
24	Foreign business income / Revenu étranger tiré d'une entreprise	
25	Foreign non-business income / Revenu étranger non tiré d'une entreprise	
26	Other income / Autres revenus	$4,300.00
30	Capital gains eligible for deduction / Gains en capital admissibles pour déduction	
31	Eligible pension income / Revenu de pension admissible	
32	Taxable amount of 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'une entreprise	
34	Foreign non-business income tax paid / Impôt étranger payé sur un revenu non tiré d'une entreprise	
35	Eligible death benefits / Prestations consécutives au décès admissibles	
36	Miscellaneous / Divers	
37	Insurance segregated fund capital losses / Pertes en capital sur les fonds réservés d'assureur	
38	Part XII.2 tax credit / Crédit d'impôt de la partie XII.2	
39	Federal dividend tax credit - TCC / Crédit d'impôt fédéral pour dividendes de SCI	$166.67
40	Investment tax credit – Investment / Crédit d'impôt à l'investissement – Investissement	
41	Investment tax credit – Tax credit / Crédit d'impôt	
42	Other tax credits – Type / Autres crédits d'impôt – Genre; Amount / Montant	

Beneficiary: Surname first, and full address
Bénéficiaire : Nom de famille d'abord et adresse complète

John Beneficiary
100 8th Street
Anytown AB T3T 3T3

Footnotes – Notes

Estate of William Martin
Nom de la fiducie

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, or 30, on the T3 slips and that you identified with an asterisk (*). You should have 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 completed T3 Summary, the T3 return and copy 1 of the related T3 slips to us 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, do not 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 14 for details.

Revenue Canada / Revenu Canada

SUMMARY OF TRUST INCOME ALLOCATIONS AND DESIGNATIONS

- Complete this form if, in the year, the trust allocated income to a resident beneficiary, or if a preferred beneficiary election was made.
- 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 filing instructions, see box B on the back of this form.

Identification

Field	Value
Name of trust	Estate of William Martin
Account number	T98-7654-32
Name of trustee, executor, or administrator	John Martin
Telephone number	(987) 123-0000
Mailing address of trustee, executor, or administrator	400 – 10th Street, Anytown AB
Postal code	T3T-3T3
Summary for taxation year	From 96 01 01 To 96 12 31
10 Total number of T3 Supplementary slips filed	1

T3 Supplementary slip totals

Summary of income allocated and 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	
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 - 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 – Non-business income for FTC	
Box 26 – Eligible capital property - QFP	
Box 26 – Self-employment earnings	
Box 30 – Qualified farm property	
Box 30 – Qualified small business corporation shares	

Certification

I, ______________________ (Please print), certify that the information given on the T3 Summary and the related T3 Supplementary slips is, to the best of my knowledge, correct and complete.

Date ______ Authorized person's signature ______ Postition or title ______

T3 Summary(E) Rev. 96 3085 Ce formulaire existe aussi en français. Canada

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 of 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 a Part XI farm asset 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 principally used in the business of farming in which the settlor, spouse, or a child of the settlor was regularly and actively engaged, the cost of 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 (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 a Part XVII asset 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 a depreciable farm asset 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 between the fair market value of the particular property and 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 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 individual income tax return or the optional rights or things 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 individual income tax 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 individual income tax return, even if you receive a payment in a year after the year of death. The following section describes the payments and whether they qualify as rights or things.

Type of payment	Info slip	Deceased person's final individual return	Rights or things return*
a) Salary or wages (including overtime) from the end of the last pay period to the 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 when the authorizing instrument was signed **before** the date of death	T4, Box 14	X	X
e) Refund of employer's reduction of U.I. premiums	T4, Box 14	X	X

*Rights or things are amounts that were not paid at the time of death and that, had the person not died, would have been included in his or her income when received. Although rights or things are usually reported on the deceased person's final individual income tax return return, under certain conditions, rights or things can be reported on a separate, optional return. Some rights and things can be directly transferred to and reported by a beneficiary. See the income tax guide called *Preparing Returns for Deceased Persons* for more information.

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
g) C.P.P./Q.P.P. Death benefit (if not reported by the recipient)	T4A(P), Box 18	X

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.

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Contacting Us

Once a trust return is filed, the information on it becomes confidential. For this reason, we follow certain 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;
- 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; and,
- 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 inquiring about the assessment of the trust return, we may also ask for information from the return; and
- 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. 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*.

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 is 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 service of your tax services office or tax centre. 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 tax services office or tax centre, see the listings under "Revenue Canada" in the Government of Canada section of your telephone book