

# T3 Guide and Trust Return

# As of November 1, 1999, Revenue Canada became the Canada Customs and Revenue Agency.

## What's new for 1999?

### Filing T3 slips

For 1999 and subsequent years, you may have to file T3 slips using magnetic media if you send us more than 500 slips. For more information, see "Filing on magnetic media" on page 11.

### Nunavut

On April 1, 1999, the Northwest Territories was divided into two new territories: Nunavut and the Northwest Territories. We have included the Nunavut income tax calculation on Schedule 13 of the return.

If you have any questions about completing a return for a Nunavut trust, you can call us toll free at ~~1-800-959-8281~~. If you need forms or other publications, call us toll free at ~~1-800-959-2221~~.

### Yukon First Nations

If the trust resided on Yukon First Nations settlement land on December 31, 1999, enter the First Nation name and identification number on page 1 of the return. For more information, see "Yukon First Nations" on page 13.

### Provincial and territorial income tax and credits

Provincial tax rates changed in 1999 for the following provinces: British Columbia, Manitoba, New Brunswick, Ontario, Prince Edward Island, and Saskatchewan. Surtax thresholds and/or rates changed for Ontario and British Columbia.

We have added the Yukon Mineral Exploration Tax Credit. For more information, see Line 91 on page 20.

### Mutual Fund Trusts

Mutual fund trusts may now elect to have a deemed taxation year end of December 15, rather than December 31.

### Election to defer the deemed realization day

A trust can no longer elect to defer its deemed realization day. As well, if a trust has made this election in the past, it may have to complete Form T1055, *Summary of Deemed Realizations*, for all property owned on January 1, 1999. For more information, see "Election to defer the deemed realization day" on page 26.

### Proposed changes

This guide and return include 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.

#### Federal individual surtax

The individual surtax rate for 1999 has changed. For more information, see page 40.

#### Trust Migration

Under proposed changes, special rules on the deemed disposition of trust property apply to trusts which leave Canada. For more information, see page 22.

#### Third-party penalty

Under proposed changes, you will be liable to a penalty if you prepare income tax or information returns, forms, or certificates on behalf of another person, and you knowingly make false statements or omissions. For more information, see "Penalties" on page 12.

Visually impaired persons can get information on services available to them, and can order publications in braille or large print, and on audio cassette or computer diskette, by calling ~~1-800-267-1267~~ weekdays from 8:15 a.m. to 5:00 p.m. (Eastern time).

## Before you start

### Is this guide for you?

In this guide, you will find information on how to complete the *T3 Trust Income Tax and Information Return*, which includes the T3 slip, *Statement of Trust Income Allocations and Designations*, and the T3 Summary, *Summary of Trust Income Allocations and Designations*.

Use this guide if you are filing a return for either a testamentary trust or an inter vivos trust described in “Types of trusts” on page 7.

For easier reading, we have used the word “you” throughout the guide to mean the trustee, executor, administrator, or anyone preparing the return for a trust. We use “the Act” to refer to the *Income Tax Act*, and “the Regulations” to refer to the *Income Tax Regulations*.

We have used plain language to explain the most common tax situations for trusts. If you need more help after reading this guide, contact any of our tax services offices. For our addresses and telephone numbers, see the listings in the government section of your telephone book.

### Do you 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 have used the ▲ symbol to lead you to the information you may need. This symbol appears in the right margins of the guide, and the left margins of the return, beside the lines which may relate to this situation.

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

- “Chapter 1 – General Information”;
- the introduction and “Step 1 – Identification and other required information” in Chapter 2; and
- the introduction and “Recipient identification number” in Chapter 4.

### Other returns

Some trusts, plans, funds, or individuals have to file returns other than the T3 return. We list these returns below. For information on filing, refer to the instructions on the applicable return or guide.

- T3IND, *T3IND Income Tax Return for RRSP, RRIF, or RESP*
- T3G, *Certification of No Tax Liability by a Group of RRSPs, RRIFs, or RESPs*
- T3D, *T3D Income Tax Return for Deferred Profit Sharing Plan (DPSP) or Revoked DPSP*
- T3P, *Employees’ Pension Plan Income Tax Return*.
- T3S, *Supplementary Unemployment Benefit Plan Income Tax Return*

- T3RI, *Registered Investment Income Tax Return*
- T3F, *Investments Prescribed to Be Qualified or Not to Be Foreign Property Information Return*
- T3M, *Environmental Trust Income Tax Return*
- T1061, *Canadian Amateur Athlete Trust Group Information Return*. If the trust distributed amounts to, or for the benefit of, a non-resident athlete, file a T3ATH-IND, *Amateur Athlete Trust Income Tax Return*.
- T5 Summary, *Return of Investment Income*, and a T5 slip, *Statement of Investment Income*:
  - a person acting for a resident of Canada, but not in a fiduciary capacity, for payments of investment income; or
  - an eligible funeral arrangement, if funds were returned to a contributor or the contributor’s estate. Note that a trust governed by an eligible funeral arrangement and a cemetery care trust are exempt from tax, and no T3 return is required.
- T3010, *Registered Charity Information Return*
- *General Income Tax and Benefit Return*, by a trustee or receiver appointed under the *Bankruptcy and Insolvency Act* who is acting for an individual.

### Forms and publications

Throughout this guide, we refer to publications and guides that give more detailed information. You can get these publications from a tax services office or tax centre, as well as the following schedules, which are not included in this guide:

- Schedule 1A – *Capital Gains on Gifts of Certain Capital Property*;
- Schedule 2 – *Reserves on Dispositions of Capital Property*;
- Schedule 3 – *Eligible Taxable Capital Gains*;
- Schedule 4 – *Cumulative Net Investment Loss*;
- Schedule 5 – *Beneficiary Spouse Information and Spousal Trust’s Capital Gains Deduction*;
- Schedule 6 – *Trusts’ Agreement to Allocate the Basic Exemption From Minimum Tax*; and
- Schedule 12 – *Minimum Tax*.

### Internet access

Most of our publications and forms are available on the Internet at: [www.cra-adrc.gc.ca](http://www.cra-adrc.gc.ca)

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

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## Glossary

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

**Administrator, administratrix** – a person that a court appoints to settle the estate of a deceased person.

**Allocate, allocation** – to assign, set apart, or distribute income from the trust to a beneficiary, when one of the following applies:

- the beneficiary is entitled to the income under the trust document;
- the trust makes a preferred beneficiary election to include the trust income in the beneficiary's income; or
- the beneficiary is paid income at the discretion of the trustee.

In most cases, the amounts you allocate have to be included in the beneficiary's income, and are deducted from the trust's income. For exceptions to this general rule, see "Exceptions and limits to income allocations" on page 29.

**Arm's length transaction** – used to describe a transaction between persons who each act in their 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. Also, a corporation and a shareholder who controls the corporation are related. For more information, see Interpretation Bulletin IT-419, *Meaning of Arm's Length*.

**Beneficiary** – the person for whose benefit the trust is created, the person to whom the amount of an insurance policy or annuity is payable, or the unitholder of a mutual fund trust.

**Deemed disposition** – used when you are considered to have disposed of property, even though you did not sell it.

**Designate, designation** – to keep the identity of certain types of allocated income or credits. In this way, the beneficiaries can take advantage of deductions or credits which relate directly to the type of income, such as the dividend tax credit or pension income amount. Generally, you report amounts designated to a beneficiary in the appropriate box on the T3 slip.

**Distribution** – to divide the estate property among the beneficiaries according to the terms of the trust document, or according to the applicable law.

**Elect, election** – to choose whether or not to do something allowed under the law.

**Executor, executrix** – an individual or trust institution named in a will and confirmed by a court to settle the testator's estate. We define "testator" on the next page.

**Flow-through entity** – any of the following:

- 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 to secure certain debt obligations; or
- a trust established to hold shares of the capital stock of a corporation to exercise the voting rights attached to such shares.

**Gift** – 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 (donor). The property has to be delivered during the lifetime of the donor and without reference to his or her death.

**Preferred beneficiary** – for taxation years after 1996, a person resident in Canada who is a beneficiary under the trust at the end of the year, and who is one of the following:

- the settlor of the trust (see the definition of "settlor" on this page);
- 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.

In addition, this person must meet one of the following conditions:

- can claim a disability amount for the beneficiary's taxation year which ends in the trust's taxation year, or could claim the amount if no one claimed a medical expense for an attendant or care in a nursing home for that beneficiary; or
- is 18 or older and, for the beneficiary's taxation year which ends in the trust's taxation year, does not claim a disability amount and for whom another individual can claim an amount for infirm dependants 18 and older for that beneficiary, or could claim the amount if the beneficiary's income is calculated before including the income from the preferred beneficiary election.

**Principal residence** – any of the following:

- a housing unit;
- a leasehold interest in a housing unit; or
- a share of a co-operative housing corporation, if the share is acquired for the sole purpose of obtaining the right to live in a housing unit owned by that corporation.

**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** – either a legally married spouse or a common-law spouse. A common-law spouse is a person who, at the time, lived with and had a relationship with a person of the opposite sex, to whom any of the following applies. He or she:

- is the natural or adoptive parent (legal or in fact) of that person's child;
- has been living with that person for at least 12 continuous months; or
- lived with that person for at least 12 continuous months, and is living with that person again.

All these situations include any period of separation due to a breakdown in the relationship of less than 90 days.

**Testator, testatrix** – the deceased person who made and left a valid will.

**Trust** – a binding obligation, voluntarily undertaken, but enforceable by law when undertaken. It may be created by one of the following:

- a person (either verbally or in writing);

- a court order; or

- a statute.

A trust has three essential characteristics. 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. The trustee is also 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.

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

# Chapter 1 – General Information

This chapter provides general information on the different types of trusts and the filing requirements for each.

## Types of trusts

A trust is either a testamentary trust or an inter vivos trust. You need to know the type of trust, since different tax rules apply to different trusts. Chart 1 describes the different types of trusts that we discuss in this guide.

### Testamentary trusts ▲

A testamentary trust is a trust or estate that is generally created on the day a person dies. All testamentary trusts are personal trusts. The terms of the trust are established by the will, by law if there is no will, or by court order under provincial dependant's relief or support law. Generally, this type of trust does not include a trust created by a person other than a deceased individual, or a trust created after November 12, 1981, if any property was contributed to it other than by a deceased individual. Contact us for rules

about testamentary trusts created before November 13, 1981.

If the assets are not distributed to the beneficiaries according to the terms of the will, the testamentary trust may become an inter vivos trust.

### Inter vivos trusts

An inter vivos trust is a trust that is not a testamentary trust.

#### Grandfathered inter vivos trust

A grandfathered inter vivos trust is one established before June 18, 1971, which:

- was resident in Canada without interruption from June 18, 1971, until the end of the taxation year;
- did not carry on any active business in the taxation year;
- did not receive any property as a gift since June 18, 1971; and
- after June 18, 1971, did not incur 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.

Chart 1 – Types of Trusts

Type of trust	General information
▲ Personal trust	<p>This is either:</p> <ul style="list-style-type: none"> <li>■ a testamentary trust; or</li> <li>■ 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.</li> </ul> <p>The person or related persons who create an inter vivos trust may acquire all the interests in it without the trust losing its status as a personal trust.</p>
▲ Spousal trust	<p>A <b>post-1971 spousal trust</b> includes both a testamentary trust created after 1971, and an inter vivos trust created after June 17, 1971, for which the living beneficiary spouse is entitled to receive all the income that may arise during the spouse's lifetime, and is the only person who can receive, or get the use of, any income or capital of the trust during the spouse's lifetime.</p> <p>A <b>pre-1972 spousal trust</b> includes both a testamentary trust created before 1972, and an inter vivos trust created before June 18, 1971, for which the beneficiary spouse was entitled to receive all the income during the spouse's lifetime, and no other person received, or got the use of, any income or capital of the trust. These conditions must be met for the period beginning on the day the trust was created, up to the earliest of the following dates:</p> <ul style="list-style-type: none"> <li>■ the day the beneficiary spouse dies;</li> <li>■ January 1, 1993; or</li> <li>■ the day on which the definition of a pre-1972 spousal trust is applied.</li> </ul>
Unit trust	<p>This is an inter vivos trust for which the interest of each beneficiary can be described at any time by referring to units of the trust. The trust also has to satisfy the other conditions of the Act.</p>
Mutual fund trust	<p>This is a unit trust that resides in Canada, whose only undertaking is the investing of its funds in property (other than real property, or an interest in real property), and/or acquiring, maintaining, leasing, or managing real property or an interest in real property that is capital property of the trust. It also has to satisfy the other conditions of the Act and the conditions prescribed by Regulations.</p>

**Chart 1 – continued**

Type of trust	General information
<p><b>Communal organization</b></p>	<p>We consider an inter vivos trust to exist when a congregation:</p> <ul style="list-style-type: none"> <li>■ has members who live and work together;</li> <li>■ does not permit its members to own property in their own right;</li> <li>■ requires that its members devote their working lives to the congregation's activities; and</li> <li>■ 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.</li> </ul> <p>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. For more information, see Information Circular 78-5, <i>Communal Organizations</i>.</p>
<p><b>Employee benefit plan</b></p>	<p>Generally, this is any arrangement under which an employer makes contributions to a custodian, and under which one or more payments will be made to, or for the benefit of, employees, former employees, or persons related to them.</p> <p>For more information, and for details on what we consider to be an employee benefit plan and how it is taxed, see Interpretation Bulletin IT-502, <i>Employee Benefit Plans and Employee Trusts</i>, and its Special Release.</p> <p><b>Filing note:</b> An employee benefit plan has to file a return if the plan or trust has tax payable, has a taxable capital gain, or has disposed of capital property.</p> <p>Because the allocations are taxed as income from employment to the beneficiaries, report the allocations on a T4 slip, not on a T3 slip. For more information, see the guide called <i>Filing T4 and T4F Slips and Summary Forms</i>.</p>
<p><b>Salary deferral arrangement</b></p>	<p>Generally, this is a plan or arrangement (whether funded or not) between an employer and an employee or another person who has a right to receive salary or wages in a year after the services have been rendered.</p> <p>A salary deferral arrangement is treated as an employee benefit plan if the arrangement was made in writing before February 26, 1986, and if the contributions are for services rendered:</p> <ul style="list-style-type: none"> <li>■ before July 1986; or</li> <li>■ after June 1986, if the employee is bound under contract to defer receiving that income.</li> </ul> <p>For more information, see Interpretation Bulletin IT-529, <i>Flexible Employee Benefit Programs</i>.</p> <p><b>Filing note:</b> If a salary deferral arrangement does not qualify for treatment as an employee benefit plan, a T3 return is not required. Instead, the deferred amount is deemed to be an employment benefit, so you report it on a T4 slip, not on a T3 slip. The employee has to include the amount in income for the year the services are rendered. The employee also has to include any interest, or other amount earned by the deferred amount. For more information, see the guide called <i>Filing T4 and T4F Slips and Summary Forms</i>.</p>
<p><b>Retirement compensation arrangement (RCA)</b></p>	<p>This arrangement exists when an employer makes contributions for an employee's retirement, termination of employment, or any significant change in services of employment.</p> <p>If the arrangement was established before October 9, 1986, or established pursuant to an agreement entered into before October 9, 1986, a new plan is deemed to have been created on the earlier of January 1, 1988, or the date on which the terms of the plan were materially altered. While all contributions made after the establishment of the new plan are treated as an RCA, the income from the property of the old plan will be treated as an employee benefit plan.</p> <p><b>Filing note:</b> You have to file a T3 return for the portion of an RCA that is treated as an employee benefit plan. A T3-RCA, <i>Part XI.3 Tax Return – Retirement Compensation Arrangement (RCA)</i>, has to be filed to report the income of the other portion of the plan. For more information, see the <i>Retirement Compensation Arrangements Guide</i>.</p>
<p><b>Insurance segregated fund trust</b></p>	<p>Considered to be an inter vivos trust, this is a related segregated fund of a life insurer for life insurance policies. The fund's property and income are considered to be the property and income of the trust, with the life insurer as the trustee.</p> <p><b>Filing note:</b> You have to file a separate return and financial statements for each fund. If all the beneficiaries are fully registered plans, complete only the identification and certification areas of the return and enclose the financial statements. If the beneficiaries are both registered and non-registered plans, report and allocate only the income that applies to the non-registered plans.</p>



**Chart 1 – continued**

Type of trust	General information
<p><b>Non-profit organization</b></p>	<p>This is an organization (for example, club, society, or association) that is usually organized and operated exclusively for social welfare, civic improvement, pleasure, recreation, or any other purpose except profit. The organization will generally be exempt from tax if no part of its income is payable to, or available for, the personal benefit of a proprietor, member, or shareholder. For more information, see Interpretation Bulletin IT-496, <i>Non-Profit Organizations</i>, and its Special Release.</p> <p>Note that if the main purpose of the organization is to provide services such as dining, recreational, or sporting facilities to its members, we consider it to be an <b>inter vivos trust</b>. In this case, the trust is taxable on its income from property, and on any taxable capital gains from the disposition of any property that is not used to provide those services.</p> <p>For more information, see Interpretation Bulletin IT-83, <i>Non-Profit Organizations – Taxation of Income From Property</i>.</p> <p><b>Filing note:</b> If the non-profit organization is exempt from tax, you do not need to file a T3 return. If the non-profit organization is not exempt from tax, file a return when the trust has tax payable, has a taxable capital gain, or has disposed of capital property. You can deduct \$2,000 on line 54 of the return when calculating the trust's taxable income.</p>
<p><b>Employee trust</b></p>	<p>This is an inter vivos trust. Generally, it 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 first return. The employer can deduct contributions to the plan only if the trust has made this election and filed it no later than 90 days after the end of its first taxation year. To maintain its employee trust status, each year the trust has to allocate to its beneficiaries all non-business income for that year, and employer contributions made in the year. Business income cannot be allocated, and is taxed in the trust.</p> <p>For more information, see Interpretation Bulletin IT-502, <i>Employee Benefit Plans and Employee Trusts</i>, and its Special Release.</p> <p><b>Filing note:</b> An employee trust has to file a return if the plan or trust has tax payable, has a taxable capital gain, or has disposed of capital property.</p> <p>Because the allocations are taxed as income from employment to the beneficiaries, report the allocations on a T4 slip, not on a T3 slip. For more information, see the guide called <i>Filing T4 and T4F Slips and Summary Forms</i>.</p>
<p><b>Master trust</b></p>	<p>This is an inter vivos trust. A trust can elect to be a master trust if during the entire time since its creation it met <b>all</b> of the following conditions:</p> <ul style="list-style-type: none"> <li>■ it was resident in Canada;</li> <li>■ its only undertaking was the investing of its funds;</li> <li>■ 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);</li> <li>■ it has never accepted deposits; and</li> <li>■ each of its beneficiaries is a registered pension plan or a deferred profit-sharing plan.</li> </ul> <p><b>Filing note:</b> A master trust is exempt from Part I tax. A trust can elect to be a master trust by indicating this in a letter filed with its return for the taxation year the trust elects to become a master trust. Once made, this election cannot be revoked. However, the trust must continue to meet the conditions listed above, to keep its identity as a master trust. After the first T3 return is filed for the master trust, you do not have to file any further T3 returns for this trust. However, if the trust exceeds the foreign content limit, you may have to file a T3D, <i>T3D Income Tax Return for Deferred Profit Sharing Plan (DPSP) or Revoked DPSP</i>, or a T3P, <i>Employee's Pension Plan Income Tax Return</i>. For more information, get a copy of these returns.</p>

**Who should file?**

You have to file a 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 for upkeep, maintenance, or taxes for property maintained for the beneficiary's use (for more information, see Line 43 on page 18); or



- receives from the trust property any income, gain, or profit that is allocated to one or more beneficiaries, and the trust has:
  - total income from all sources of more than \$500;
  - income of more than \$100 allocated to any single beneficiary; or
  - allocated any portion of the income to a non-resident beneficiary.

## Note

You may not have to file a 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.

## What to file? ▲

Trusts listed in Chart 1 may have to file a T3, *Trust Income Tax and Information Return*, and any related schedules and statements, if they meet the requirements listed above in “Who should file?” The T3 return is filed as both an income tax return, which calculates tax liability, and an information return, which reports amounts allocated and designated to beneficiaries. You may also have to file the following forms, depending on the type of amounts paid or allocated by the trust:

- If the trust allocated amounts to resident beneficiaries, use the T3 Summary and the related T3 slips. See Chapter 4 for more information.
- If the trust paid executor or trustee fees to a resident of Canada, or if an employee benefit plan or an employee trust made distributions other than a return of employee contributions, use a T4 Summary, *Summary of Remuneration Paid*, and the related T4 slips, *Statement of Remuneration Paid*. For more information, see the guide called *Filing T4 and T4F Slips and Summary Forms*.
- If the trust paid scholarships, fellowships, bursaries, prizes, or research grants to a resident of Canada, use a T4A Summary, *Summary of Pension, Retirement, Annuity, and Other Income*, and the related T4A slips, *Statement of Pension, Retirement, Annuity, and Other Income*. For more information, see the guide called *Filing the T4A Slip and Summary Form – 1999*.
- If the trust paid or credited, or is considered to have paid or credited, amounts to a non-resident beneficiary, use an NR4 Summary, *Return of Amounts Paid or Credited to Non-Residents of Canada*, and the related NR4 slips, *Statement of Amounts Paid or Credited to Non-Residents of Canada*. For more information, see the *Guide for Filing the NR4 Return*, and the *Non-Resident Withholding Tax Guide*.
- If the trust paid fees to a non-resident of Canada for services performed in Canada, use a T4A-NR Summary, *Summary of Fees, Commissions, or Other Amounts Paid to Non-Residents of Canada for Services Rendered in Canada*, and the related T4A-NR slips, *Statement of Fees, Commissions, or Other Amounts Paid to Non-Residents of Canada for Services Rendered in Canada*. For more information, see the *Non-Resident Withholding Tax Guide*.

## When to file? ▲

The filing due date depends on the trust’s taxation year end.

### Filing dates

You have to file the return, T3 slips, and summary no later than **90 days** after the end of the trust’s taxation year (see “Taxation year” on this page). You should also pay

any balance owing no later than 90 days after the trust’s taxation year end.

If the information slips you need to complete the return are not available when the return is due, **estimate** the income. If, after you receive the slips, you find your estimate differs from the actual amounts, send the slips and a letter to us, requesting an adjustment to the trust’s income. For more information, see “Reassessments” on page 12.

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

If the required filing date falls on a Sunday or a statutory holiday, we will consider it filed on time if it is delivered on, or if the postmark on the envelope is, the first working day after the required filing date.

For information on late-filing penalties and interest on unpaid taxes, see “Penalties and interest” on page 12.

### Note

You have to file T4, T4A, NR4, and T4A-NR slips by the last day of February after the calendar year in which the trust made the payment.

**Deadline for distributing T3 slips** – You must send T3 slips to the beneficiary’s last known address no later than 90 days after the end of the trust’s taxation year. If you have the information you need to complete the slips before that deadline, we encourage you to send them to the beneficiaries as early as possible.

### Final return

If you are filing the final return for the trust, you have to file the return and pay any balance owing no later than 90 days after the trust’s wind-up (discontinuation) date. You have to enter the wind-up date on page 1 of the return.

If you wind up a **testamentary trust**, the taxation year will end on the date of the final distribution of the assets. If you wind up an **inter vivos trust**, you may want to file a final return before the end of the trust’s taxation year. In either case, you should get a clearance certificate before you distribute the trust property. For more information, see “Clearance certificate” on page 13.

## Taxation year

### Inter vivos trust

The taxation year end of an inter vivos trust is December 31, except for a mutual fund trust that elects to have a December 15 year end.

### Testamentary trust

The taxation year end of a testamentary trust may be, but does not have to be, December 31. The first taxation period of the trust begins on the day after the person dies, and ends at any time you select within the next 12 months. The tax rates used, and the tax year of the slips issued to the beneficiaries, are based on the year end of the trust.

You may prefer to choose a December 31 year end for a testamentary trust for several reasons.

- **Availability of forms** – The current-year trust returns and related schedules are usually not available until

the end of the calendar year. A 2000 return due before the forms are available would have to be filed on a 1999 form, which might not contain current-year changes or information.

- **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 (for example, a T5 slip for bank interest).
- **Minimum delay in assessing** – Changes to law generally require changing the processing procedures for the return. If the return has a taxation year ending early in a calendar year, we may have to delay assessing the return until the law is passed and the new procedures are in place.

There may also be advantages to choosing a non-calendar year end. Elections to transfer certain estate losses incurred and certain gains realized on employee stock options during the first taxation year of the trust to the deceased person's return for the year of death, and the timing of income receipts may play an important role when you choose the trust's taxation year.

Once you establish the trust's year end, you **cannot** change it without our approval. Requests will be approved only if the change is for sound business reasons. Normally, retroactive changes will not be approved. For more information, see Interpretation Bulletin IT-179, *Change of Fiscal Period*.

#### Note

If the assets of the testamentary trust are not distributed to the beneficiaries according to the terms of the will, the testamentary trust may become an inter vivos trust. If this is the case, change the taxation year of the trust to December 31 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.

## Where to file? ▲

Where you file the return depends on the residency of the trust. Generally, we 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.

A trust is a resident of Canada or a non-resident of Canada. The residence of the trust will determine the appropriate tax rates.

For more information, see Interpretation Bulletin IT-447, *Residence of a Trust or Estate*.

## Trusts resident in Canada

Send the return to:

Ottawa Technology Centre  
Ottawa ON K1A 1A2

If you have questions about **resident** trusts, contact us. For our addresses and telephone numbers, see the listings in the government section of your telephone book.

## Non-resident trusts

Send the return to:

International Tax Services Office  
Canada Customs and Revenue Agency  
Ottawa ON K1A 1A8

If you have questions about **non-resident** trusts, call the International Tax Services Office at one of the following numbers:

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.

## How to file? ▲

You can use the following formats to file the return, the summary, and the related slips.

**Paper return, summary, and slips** – You can use the forms that we print, or your own computer-printed (customized) forms. If you file more than 500 T3 slips, see "Filing on magnetic media" below. If you design and issue your own customized forms, you have to get written approval from us. For more information, see Information Circular 97-2, *Customized Forms – Returns and Information Slips*.

**Filing on magnetic media** – If the trust has a taxation year end of December 31, or is a mutual fund trust with a taxation year end of December 15, and:

- you file more than 500 T3 slips, you have to file the slips on magnetic tape, cartridge, or diskette; or
- you file 500 or less T3 slips, and you use a computerized system to generate them, we encourage you to file the slips and summary on magnetic media.

If you are a tax preparer, and you file a total of more than 500 T3 slips for trusts that have a taxation year end of December 31, or December 15 for mutual fund trusts, you have to file using magnetic media for these trusts.

If you file on magnetic media, send us the tape, cartridge, or diskette on or before the filing deadline. Do not send a paper copy of the summary or slips.

If you are participating in the magnetic media filing program for the first time, send us a test tape or diskette for our approval at least two months before the filing deadline. For technical specifications, see the *Computer Specifications for Data Filed on Magnetic Media – T5, T5008, T4RSP, T4RIF, NR4, and T3* guide.

For more information about this method of filing, you can call us toll free at ~~1-800-665-5164~~. You can also reach us on the Internet at the following address:  
[www.cca-adrc.gc.ca/magmedia](http://www.cca-adrc.gc.ca/magmedia)

If you prefer, you can write to:

Magnetic Media Processing Team  
Ottawa Technology Centre  
Ottawa ON K1A 1A2

## Penalties and interest ▲

### Penalties

If you do not file the trust's income tax return by the required date, we will charge a late-filing penalty on any unpaid tax. The penalty is 5% of the unpaid tax plus 1% of the unpaid tax for each full month that the return is late, to a maximum of 12 months.

The late-filing penalty will be **higher** if we issued a demand to file the return, and we assessed a late-filing penalty for any of the three previous years' returns. In this case, the penalty is 10% of the unpaid tax, plus 2% of the unpaid tax for each full month that the return is late, to a maximum of 20 months.

If you fail to report an amount on the return, we may charge you a penalty. If you do this more than once within a four-year period, you will have to pay an extra penalty.

If you file an information return late, or do not distribute two copies of the related slips to the beneficiaries by the required date, you will be liable to a penalty. This penalty is \$25 a day for each day they are late, from a minimum of \$100 to a maximum of \$2,500.

If you do not file a return or slip as required, you will be guilty of an offence. If convicted, you will be 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 period of up to 12 months.

Under proposed changes, you will be liable to a penalty if you prepare income tax or information returns, forms, or certificates on behalf of another person, and you knowingly make false statements or omissions. The penalty is the greater of \$1,000 and 50% of the tax avoided or refunded as a result of the false information. This penalty will become effective with Royal Assent of the legislation involved.

### Interest

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

- the 46th day after the return is due;
- the 46th day after the return is filed; or
- the day after the overpayment arises.

We charge interest on unpaid amounts and the total amount of penalties assessed. We calculate this interest, compounded daily, at a prescribed rate from the date the unpaid amount was due until the date of its payment.

### Cancelling or waiving penalties and interest

We may cancel or waive all or a portion of penalties and interest because of circumstances beyond your control. For more information, see Information Circular 92-2, *Guidelines for the Cancellation and Waiver of Interest and Penalties*.

## After you file ▲

### Processing times

We can usually process a T3 return in four months. If you filed a return for the first year of a testamentary trust, and you chose a taxation year end other than December 31, it may take longer to process the return. For more information, see "Taxation year" on page 10.

### Reassessments

If you need to change a return after you send it to us, **do not** file another return for that taxation year. Send us a letter providing the details of the change. Make sure that you indicate the taxation year you want us to change, and attach any supporting documents. You should also include the trust's account number on the letter.

We can reassess your return, make additional assessments, or assess tax, interest, or penalties within:

- 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 (this period is called the "normal reassessment period"). 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.

Your request should be postmarked before the end of the periods mentioned above for us to consider reassessing your return.

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 usually base our initial assessment on the income you report. Later, we may select the return for a more in-depth review or audit. We can also reassess a return at any time if:

- you have made a misrepresentation because of neglect, carelessness, willful default, or fraud in either filing the return or supplying information required by the Act; or
- you file Form T2029, *Waiver in Respect of the Normal Reassessment Period*, with your tax services office before the normal reassessment period expires. If you want to revoke a waiver you previously filed, file Form T652, *Notice of Revocation of Waiver*. The revocation will take effect six months after you file Form T652.

### Elections

In certain cases, you can make a late or amended election, or revoke an original election. Generally, we will allow you to do this if there are circumstances beyond your control. This applies to the following elections that we discuss in this guide:

- 164(6) election by a testamentary trust (see page 21); and
- preferred beneficiary election (see page 31).

To do this, you have to give us the details in writing. 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. The maximum penalty is \$8,000.

For more information, see Information Circular 92-1, *Guidelines for Accepting Late, Amended or Revoked Elections*.

## What records do you have to keep?

You have to keep your books, records, and supporting documents in case we need to verify the income or loss you reported on the return. Generally, you must keep them for at least six years from the taxation year end to which they relate. However, you can request permission to dispose of them before the end of this period. For more information, see Information Circular 78-10, *Books and Records Retention/Destruction*.

## Clearance certificate

You have to get a clearance certificate before distributing any property under your control. However, you can distribute property without a clearance certificate, as long as you keep sufficient property in the trust to pay any liability to us. 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 returns and we have assessed them; and
- have paid or secured all amounts owing.

To ask for a clearance certificate, complete Form TX19, *Asking for a Clearance Certificate*. Send the completed Form TX19 to the Assistant Director, Verification and Enforcement Division, at your tax services office. Send the form after you have received the *Notices of Assessment* for all returns. Do not include Form TX19 with a tax return.

For more information, see Information Circular 82-6, *Clearance Certificate*.

## Chapter 2 – Completing the Return

The *T3 Trust Income Tax and Information Return* is a four-page form with related schedules. As the preparer, you should follow the steps below.

### Step 1 – Identification and other required information ▲

#### Page 1 – Identification

Complete **all** items on page 1 of the return. The assessment of the return may be delayed if you do not provide all the information.

- **Name of trust** – Use the same name on all returns and correspondence for the trust.

- **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 for the trust, we will issue an account number after we receive the return.

- **Residence of trust and type of trust** – It is important that you complete each item correctly because we use this information to determine the correct rate of tax. For information about the residence of the trust, see “Where to file?” on page 11. To identify the correct type of trust, see the chart on page 7.

For testamentary trusts, use box 2 to identify trusts which are not spousal trusts. For inter vivos trusts, use box 10 to identify personal trusts which are not spousal trusts or communal organizations.

- **Yukon First Nations** – If the trust resides on Yukon First Nations settlement land, answer “Yes,” and enter the First Nations name and identification number in the spaces provided. The settlement lands and their numbers are:

– Champagne and Aishihik	11002
– Little Salmon/Carmacks	11006
– Nacho Nyak Dun	11007
– Selkirk	11009
– Teslin Tlingit	11011
– Tr’ondëk Hwëch’in	11012
– Vuntut Gwitchin	11013

When you enter this information on the return, we will transfer part of any tax payable to the government of the First Nations settlement where the trust resides.

- **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 business number.

#### Questions

Answer all the questions at the bottom of page 1. The following information will help you answer certain questions.

**Question 1** – You have to answer this question for each personal trust.

**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** – For information about debts incurred in non-arm’s length transactions, see Interpretation Bulletin IT-406, *Tax Payable by an Inter Vivos Trust*.

**Question 7** – If the trust filed Form T1015, *Election by a Trust to Defer the Deemed Realization Day*, in a previous year, and has not disposed of that property since the election was made, see “Election to defer the deemed realization day,” on page 26.

**Question 8** – The terms of the will, trust document, or court order determine the requirement to allocate income.

**Question 9** – See “Income to be taxed in the trust” on page 30.

## Page 2 – Schedules and other required information

The questions on page 2 of the return will help you determine the schedules, forms, and statements you may need to complete. Please answer all questions.

The schedules marked with an asterisk (\*) are not included in this guide. You can get these schedules from a tax services office, or from the Internet.

The following information will help you answer certain questions.

**Question 5** – You have to answer this question for each personal trust created by contributions from the same individual.

**Question 11** – For more information, see “Preferred beneficiary election” on page 31.

**Question 15** – If you answer *yes*, attach a statement giving all required information. See “Distribution of property to beneficiaries” on page 21.

**Question 17** – For more information, see “Testamentary trust elections” on page 21.

Once you have completed the necessary documents, you will be ready to complete the return. Attach all schedules, forms, and statements to the return.

## Step 2 – Calculating total income: Lines 01 to 20

### Reporting foreign income and property

A trust that is resident in Canada has to report its income from **all** sources, both inside and outside Canada.

Depending on the trust’s situation, you may have to file the following forms in addition to a T3 return. These forms contain more information about filing them.

- The trustee of a trust with a foreign affiliate that is not a controlled foreign affiliate has to file Form T1134-A, *Information Return Relating to Foreign Affiliates That Are Not Controlled Foreign Affiliates*.
- The trustee of a trust with a controlled foreign affiliate trust or corporation has to file Form T1134-B, *Information Return Relating to Controlled Foreign Affiliates*.
- The trustee of a trust which has made transfers or loans of property to a corporation that would have been a controlled foreign affiliate of a foreign trust, if the foreign trust had been resident in Canada, or to a foreign trust in any year, or whose controlled foreign affiliate has made transfers or loans of property to a corporation that would have been a controlled foreign affiliate of a foreign trust if the foreign trust had been resident in Canada, or to a foreign trust (except specified foreign pension plans, specified foreign mutual fund trusts, and trusts governed by foreign retirement arrangements), has to file Form T1141, *Information Return in Respect of Transfers or Loans to a Non-Resident Trust*.

- The trustee of a trust that receives distributions from, or is indebted to, a foreign trust in which it has a beneficial interest (except specified foreign pension plans and trusts governed by foreign retirement arrangements), has to file Form T1142, *Information Return in Respect of Distributions From and Indebtedness to a Non-Resident Trust*.

The trust may either hold foreign property owned by the trust, or it may own a share of foreign property in which it has an interest. If the total cost of all the trust’s foreign holdings is more than CAN\$100,000, complete Form T1135, *Foreign Income Verification Statement*. Form T1135 contains more information about filing, and a complete list of the different kinds of foreign property.

The deadline for filing these forms is the same as the return’s filing due date (see “Filing dates” on page 10).

#### Note

There are substantial penalties for failing to complete and file these forms by the due date.

Foreign property includes:

- funds held outside Canada (including a foreign bank account);
- tangible property located outside Canada, including real estate and equipment;
- shares in non-resident corporations;
- an interest in a non-resident trust, including a foreign mutual fund trust;
- intangible property located outside Canada, such as rights to royalties, and a share of a Canadian corporation deposited with a foreign broker; and
- a debt (such as a note, bond, or debenture) owed or issued by a non-resident.

Foreign property does **not** include:

- an interest in a registered retirement savings plan, registered retirement income fund, or registered pension plan that contains foreign property;
- mutual funds registered in Canada that contain foreign investments;
- property the trust used or held exclusively in the course of carrying on an active business; or
- personal-use property.

### Transfers and loans of property

We refer to a person who has loaned or transferred property as the “transferor.” If a transferor, who is alive and resident in Canada, lends or transfers property to the trust for the benefit of:

- the transferor’s **spouse**; or
- the transferor’s **related minor** (such as a child, grandchild, sister, brother, niece, or nephew under the age of 18 at the end of the year);

any income from that property may have to be reported on the transferor’s return.

### Note

The transferor does not have to report the income of the trust if the related minor turns 18 before the end of the year.

The transferor may also have to report taxable capital gains or allowable capital losses from the disposition of property loaned or transferred to a trust for the benefit of the transferor's spouse.

For more information, see the following interpretation bulletins:

- IT-286, *Trusts – Amount Payable*;
- IT-369, *Attribution of Trust Income to Settlor*, and its Special Release;
- IT-510, *Transfers and Loans of Property Made After May 22, 1985 to a Related Minor*; and
- IT-511, *Interspousal and Certain Other Transfers and Loans of Property*.

If the trust's terms are such that the transferred property may revert to the transferor, or if the transferor keeps a certain degree of control over the property, read "Exceptions and limits to income allocations" on page 29.

If the income from loaned or transferred property is to be included on the transferor's tax return, you generally have to report it on the trust's return, and issue a T3 slip reporting the income as that of the transferor.

If the property was sold to the trust at its fair market value, or if it was loaned to the trust at a prescribed rate of interest (which was paid within 30 days of the end of the taxation year), any income or loss, or any taxable capital gain or allowable capital loss, from that property is generally income of the trust. Do not issue a T3 slip to the transferor for this income.

An individual can receive a low-interest or interest-free loan from a trust to which another individual transfers property. If the main reason for the loan was 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, report the income from that loaned property or any property substituted for it on the trust's return. This rule also applies to an arm's length commercial loan that the individual uses to repay the original low-interest or interest-free loan.

### Line 01 – Taxable capital gains

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

If the amount on line 122 of Schedule 1 is a net capital loss, **do not** enter it on line 01. 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 limits to income allocations" on page 29). You can only use it to reduce the trust's taxable capital gains of other years. For more information on net capital losses, see Line 52 on page 19.

### Note

In the first taxation year of a testamentary trust, the legal representative can elect to apply any net capital loss against income on the deceased's final return. See "Testamentary trust elections" on page 21.

If a trust sells capital property and realizes a gain, it is treated as a capital gain. If a trust sells eligible capital property and realizes a gain, it is treated as business, farming, or fishing income. If the eligible capital property is qualified farm property, the gain qualifies for the \$500,000 capital gains exemption. For more information, see the *Farming Income* or the *Farming Income and NISA* guides.

### Line 02 – Pension income ▲

Enter amounts that the trust received from the following:

- a registered pension plan (RPP);
- a retirement compensation arrangement;
- a deferred profit-sharing plan (DPSP);
- a superannuation plan; or
- a foreign retirement arrangement.

### Lump-sum payments

If the trust received a lump-sum payment from an RPP or a DPSP that includes amounts accrued to December 31, 1971, you can elect to have this portion taxed in the trust at a lower rate. Do not include the amount on this line. Instead, enter "ITAR 40" on line 02 and on line 1109 of Schedule 11, and we will calculate the tax adjustment. For more information, see Interpretation Bulletin IT-281, *Elections on Single Payments From a Deferred Profit-Sharing Plan*.

### Line 03 – Actual amount of dividends ▲

Enter the **actual amount** of dividends received from taxable Canadian corporations from line 805 of Schedule 8. Attach all information slips received. For more information, see Line 805 on page 27.

### Line 04 – Foreign investment income ▲

Enter all interest and other investment income from foreign sources from line 808 of Schedule 8. For more information, see the note at Line 05 below, and Lines 806 to 808 on page 27.

### Line 05 – Other investment income ▲

Enter the amount from line 815 of Schedule 8.

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

### Note

In the first year of a testamentary trust, any interest income that has accrued to the person's date of death is reported on the deceased person's final return. Any interest income accrued after the person's date of death is reported on the trust return.

For more information, see Lines 809 to 815 on page 27.

## Lines 06, 07, 08, and 09 – Business, Farming, Fishing, and Rental income

Enter on the appropriate lines, the trust's gross and net income or loss from business, farming, fishing, and rentals. If the amount is a loss, report it in brackets. If the trust is a member of a partnership, enter the **trust's share** of the partnership's net income or loss, and the **partnership's** total gross income.

If a trust operates a business with a fiscal period end other than December 31, special rules may apply for calculating income. See the *Reconciliation of Business Income for Tax Purposes* guide, to calculate the income to report.

### Note

A testamentary trust is exempt from these rules for calculating income if the trust is the sole proprietor of the business, or if the business is owned by a partnership of testamentary trusts.

If the trust acquires depreciable property by gift, bequest, or inheritance, and claims capital cost allowance on that property against income from business, farming, fishing, or rentals, see "Appendix A – Cost of depreciable assets" on page 47 for the rules for calculating the cost of these properties.

You have to follow certain rules when reporting business, farming, fishing, and rental income. The following guides contain additional information and forms you need to help you calculate the trust's income:

- *Business and Professional Income* (Form T2124, *Statement of Business Activities*);
- *Farming Income* (Form T2042, *Statement of Farming Activities*);
- *Farming Income and NISA* (Form T1163, *NISA Account Information and Statement of Farming Activities for Individuals*);
- *Fishing Income* (Form T2121, *Statement of Fishing Activities*); and
- *Rental Income* (Form T776, *Statement of Real Estate Rentals*).

## Line 10 – NISA Fund 2

Use the calculation in this section to report all amounts received, and those deemed to have been received by the trust out of its NISA Fund 2. This fund is the portion of a farm producer's net income stabilization account (NISA) that comes from third-party sources, such as interest, bonuses, and government contributions.

The trust should receive an AGR-1 slip, *Statement of Farm Support Payments*, for all farm support programs from which it received payments of more than \$100. These include programs administered by the federal, provincial, and municipal governments, and producer associations.

A NISA Fund 2 can be transferred to a testamentary post-1971 spousal trust when the settlor dies. 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 "NISA Election," which follows this section.

The trust has to report on line 10, the amount, if any, determined by the following calculation:

$$A - (B - C)$$

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)

B = 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

C = 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.

NISA Fund 2 payments are taxable in the trust. They cannot be allocated to beneficiaries, except for amounts that relate to payments received by a testamentary spousal trust while the beneficiary spouse was still alive. Use the space below line 10 to show any of the amount on that line relating to payments received while the beneficiary spouse was, or is still, alive.

## NISA Election

The trust may want to make an election to report the deemed payment out of the NISA fund on the beneficiary spouse's final return. To do so, submit the following information with the 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 electing, 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 2 and the amount being reported on the beneficiary spouse's final return and the trust's return.

## Line 11 – Deemed realizations

Enter the trust's income resulting from "21-year deemed realizations," from line 42 of Form T1055, *Summary of Deemed Realizations*. For more information, see "Deemed realization (disposition)" on page 25.

## Line 19 – Other income ▲

Enter the total income the trust received in the taxation year that is not included elsewhere on the return or schedules, such as:

- royalties;
- commissions;
- death benefits under the Canada Pension Plan (CPP) or Quebec Pension Plan (QPP);



- 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 (for more information, see the *Preparing Returns for Deceased Persons* guide).

#### Death benefit – Other than CPP or QPP

A death benefit is an amount for a deceased person's employment service. It is shown in box 28 of a T4A slip. If the amount is to be taxed in the trust according to the provisions of the trust document, you may be able to exclude up to \$10,000 of the amount from the trust's income.

If a death benefit was received by the trust alone, report the amount that is more than \$10,000. Even if the trust did not receive all of the death benefits in one year, the total tax-free amount for all years cannot exceed \$10,000. To find out what to report if anyone else received a death benefit for the same person, see Interpretation Bulletin IT-508, *Death Benefits*.

Attach a copy of the T4A slip, or a statement from the deceased person's employer, that identifies the payment as a death benefit.

#### Registered retirement savings plan (RRSP)

A trust may be entitled to 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. You usually include this amount on line 19. For more information on taxable benefits from matured and unmatured RRSPs, see the *RRSPs and Other Registered Plans for Retirement* guide and Interpretation Bulletin IT-500, *Registered Retirement Savings Plans – Death of an Annuitant*.

### Step 3 – Calculating net income: Lines 21 to 50

#### Line 21 – Carrying charges and interest expenses ▲

Enter the total carrying charges from line 820 of Schedule 8. For more information, see Lines 816 to 820 on page 28.

#### Lines 22 to 24 – Trustee fees

Trustee and executor fees include:

- fees paid for certain investment advice (for more information, see Interpretation Bulletin IT-238, *Fees Paid to Investment Counsel*);
- fees incurred to gain or produce business or property income (deducted when you calculate the trust's business or property income); and
- fees for administering the trust or looking after real property (for example, a residence) used by a lifetime beneficiary of a testamentary trust (because these fees are

not incurred to earn business or property income, you cannot deduct them from the income of the trust).

Whether or not these fees are deductible by the trust, they are still income to the recipient. For this reason, you have to include the total fees paid in the year on line 22.

On line 23, enter the fees that were not incurred to earn income or that were already deducted elsewhere on the return.

Trustee or executor fees paid to a person who acts in the capacity of an executor in the course of a business are part of that individual's business income. You should report these amounts on a T4A slip. Otherwise, the fee for acting as executor is income from an office or employment. If the fees paid are \$500 or more, you have to prepare a T4 slip for that individual. The individual reports these amounts as income from an office, even if he or she does not receive a T4 slip. For more information, see the guide called *Filing T4 and T4F Slips and Summary Forms*.

If the trust pays fees to a non-resident of Canada for services performed in Canada, complete a T4A-NR slip. For more information, see the *Non-Resident Withholding Tax Guide*.

#### Line 25 – Allowable business investment losses (ABIL)

If the trust had a business investment loss, you can deduct 3/4 of that loss from income. We call the deductible portion an ABIL. It results from the actual or deemed disposition of certain capital properties. This can happen if the trust has disposed of, or is deemed to dispose of, one of the following to a person with whom it deals at arm's length:

- a share or debt of a small business corporation; or
- a bad debt owed to it by a small business corporation.

For more information, see the *Capital Gains* guide.

You can deduct the ABIL from the trust's other sources of income for the year. If the ABIL is more than the other sources of income for the year, the difference is a non-capital loss for the year. For more information about non-capital losses, see Line 51 on page 19.

If you cannot deduct the ABIL as a non-capital loss within the allowed timeframe (see Line 51 for details), 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 following year.

**Reduction in business investment loss** – If the trust designated part or all of its eligible taxable capital gains for the purpose of the capital gains deduction, to a beneficiary in a previous year, you have to reduce the business investment loss for the current year.

Use the chart on the next page to calculate the reduction in business investment loss. If the trust had more than one business investment loss in the year, use this chart to calculate the total reduction.

For more information, see Interpretation Bulletin IT-484, *Business Investment Losses*.

### Allowable business investment loss and reduction

You have to adjust the amount of eligible taxable capital gains at lines 1 to 4, because they were included in income at different rates in previous years.

Total eligible taxable capital gains designated by the trust in 1985, 1986, and 1987 .....	_____	× 2	=	_____	1
Total eligible taxable capital gains designated by the trust in 1988 and 1989 – <b>do not</b> include eligible capital property on this line .....	_____	× 3/2	=	+ _____	2
Total deemed taxable capital gains from eligible capital property designated by the trust in 1988 and 1989 .....	_____	× 4/3	=	+ _____	3
Total eligible taxable capital gain amounts designated by the trust in years after 1989 and before the current year .....	_____	× 4/3	=	+ _____	4
<b>Add</b> lines 1 to 4 .....	_____		=	_____	5
Total amount you used to reduce the trust's business investment losses in years after 1985 and before the current year .....	_____		-	_____	6
Line 5 <b>minus</b> line 6 .....	_____		=	_____	7
Business investment losses for the year before reducing the losses .....	_____				8
Enter the amount from line 7 or line 8, whichever is <b>less</b> . This is the reduction for the year. (Enter this amount on line 113 of Schedule 1.) .....	_____		-	_____	9
Business investment losses for the year: line 8 <b>minus</b> line 9 .....	_____		=	_____	10
Allowable business investment losses for the year: line 10 ( _____ ) × 3/4. (Enter this amount on line 25 of the return.) .....	_____		=	_____	11

#### Line 40 – Other deductions from total income

Generally, you can deduct expenses if they were paid to earn income for the trust. This includes legal, accounting, and management fees. You can also deduct the following:

- a resource allowance; and
- fees paid for advice or assistance in objecting to or appealing an assessment or decision under the Act (although you have to reduce the claim by an award or reimbursement you received for such expenses).

**Do not** deduct the following:

- outlays and expenses that apply to the capital assets of the trust (see “Outlays and expenses” on page 23);
- personal expenses of the beneficiaries or trustees, such as funeral expenses or probate fees; or
- any amounts paid to beneficiaries.

**Resource allowance** – Claim a resource allowance of up to 25% of the trust's resource profits on line 40. Generally, the resource profits of a trust are earned as production royalties. 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 for 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.

#### Line 43 – Upkeep, maintenance, and taxes of a property used or occupied by a beneficiary

You may have claimed expenses on the return which relate to the upkeep, maintenance, and taxes on a property used by a beneficiary. You may have claimed these expenses on a financial statement, such as a rental statement. Generally, if these amounts were paid out of the income of the trust, according to the trust document, the beneficiary is required to include these amounts in income in the year they were paid. Therefore, you have to report these benefits as income on the beneficiary's T3 slip, and you will deduct them again from the trust's income on line 47. To offset this “double-deduction” of the same expenses, you have to add these amounts back into the trust's income on line 43.

Provide details of the amount entered on this line, including the nature and amount of each expense, and the line on the return or financial statement where you have claimed them.

#### Line 44 – Value of other benefits to a beneficiary

You may have paid benefits from the trust to a beneficiary, such as amounts for personal or living expenses. The beneficiary has to include the value of these benefits in income in the year they were paid, unless the value:

- is already included in computing the beneficiary's income for the year; or
- has been used to reduce the adjusted cost base of the beneficiary's interest in the trust.

Enter on line 44, the amount of these benefits which were included as income on the beneficiary's T3 slip.

Because you have to deduct the value of the benefits as income allocations and designations to beneficiaries on line 47, and the trust cannot deduct this amount, you have to add it back into the trust's income by including the amount on line 44. Provide details of the amount entered on this line, including the nature and amount of each benefit.

### **Line 47 – Total income allocations and designations to beneficiaries**

Generally, a trust receives income and pays it to the beneficiaries, according to the terms of a will or trust document. We call this “allocating” income. In most cases, you enter the income on the T3 return in Step 2, then deduct it on line 47, so the trust does not pay tax on the income. The beneficiary then has to report the income on his or her tax return. See Schedule 9 on page 29 for more information.

There are some cases, however, where income which is allocated to a beneficiary may be taxed on the trust's return, instead of the beneficiary's. In other cases, income which is usually reported on the trust's return may instead be reported on the beneficiary's return. For more information, see “Exceptions and limits to income allocations” on page 29.

Enter on line 47 the amount from line 928 of Schedule 9. For more information, see Line 928 on page 33.

### **Step 4 – Calculating taxable income: Lines 51 to 56**

**Losses of other years** – If you are claiming a loss from other years, provide a continuity statement of the loss balances. Be sure to provide the year the loss was incurred, the amounts applied in previous years, and the balance remaining at the beginning of the current year.

If you are providing a continuity statement for a net capital loss carryforward, get the *Capital Gains* guide, and use the table in Chart 5.

### **Line 51 – Non-capital losses of other years**

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

If the trust has an unused non-capital loss from a previous year, you can use it to reduce taxable income for the current year. Enter this amount on line 51.

For information on how to carry back an unused non-capital loss, see “Form T3A, *Request for Loss Carryback by a Trust*” on this page.

**Farming and fishing losses** – If the trust had a farming or fishing loss from a previous year, see Line 54 on the next page.

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

Generally, if the trust's allowable capital losses are more than its taxable capital gains in a year, the difference is a net capital loss for that year. You can use the net capital loss to

reduce the trust's taxable capital gains in any of the three preceding years or in any future year.

Within certain limits, you can deduct all or a portion of the trust's net capital losses of other years that have not already been claimed.

For more information, see the *Capital Gains* guide.

**Listed personal property losses** – Losses on listed personal property (LPP) can be applied only against LPP gains. Claim the unused portion of an LPP loss from a previous year against a current-year LPP gain on line 108 of Schedule 1, or on line 8 of Form T1055, *Summary of Deemed Realizations*, if applicable. See “Listed personal property” on page 24.

The unused portion of an LPP loss can be carried back three years and forward seven years, and applied against LPP gains in those years.

For information on how to carry back an unused net capital loss or an LPP loss, see the next section.

### **Form T3A, Request for Loss Carryback by a Trust**

Use this form to carry an unused loss back to a previous year. You have to make your request on or before the due date of the return for the year in which the trust incurred the loss. You can file the form separately or attach it to the current year's return.

If the loss is not deducted fully in a previous year, keep a schedule of the unused portion so you can deduct it in future years. Always apply the oldest loss within a class of losses first. For example, apply a 1996 non-capital loss before a 1997 non-capital loss.

A non-capital loss carryback is used to reduce the taxable income of the trust in a previous year. If you allocated income to beneficiaries in the previous year, you cannot reduce the income allocated to increase the loss you can apply.

A net capital loss carryback is deductible only from the taxable capital gains retained in the trust. If taxable capital gains were previously designated to beneficiaries, you may be able to change the amount of net taxable capital gains designated as long as the total income allocated does not change.

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

For more information, see Interpretation Bulletins IT-381, *Trusts – Capital Gains and Losses and the Flow-Through of Taxable Capital Gains to Beneficiaries*, and IT-232, *Losses – Their Deductibility in the Loss Year or in Other Years*.

### **Line 53 – Capital gains deduction for resident spousal trust only**

A spousal trust, if resident in Canada, can claim the unused portion of a beneficiary spouse's capital gains deduction in the year that the beneficiary spouse dies. To calculate the

deduction, complete Schedule 5 and attach it to the return. Enter on line 53 the amount from line 525 of Schedule 5.

The deduction is not available to a pre-1972 spousal trust that filed Form T1015, *Election by a Trust to Defer the Deemed Realization Day*.

## Line 54 – Other deductions to arrive at taxable income

Enter other deductions, such as:

- prior year losses, such as limited partnership losses, or farming or fishing losses (see the Note in this section);
- the \$2,000 deduction allowed to a non-profit organization reporting income from property; and
- the amount of foreign income reported that is exempt from tax in Canada because of a tax treaty or convention (identify the exempt income amount, and the treaty or convention that applies).

If the trust is claiming more than one loss, or if a claim needs more explanation, attach a note to the return providing the details.

### Note

The unused portion of a farming or fishing loss incurred in a year can be carried back three years and forward ten years. There are restrictions on the amount of certain farm losses you can deduct each year. For information on restricted farm losses, see the *Farming Income* or the *Farming Income and NISA* guides. For information on how to carry back this type of loss, see “Form T3A, *Request for Loss Carryback by a Trust*” on page 19.

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

### Line 85 – Tax paid by instalments ▲

Enter the total instalment payments made by the trust. 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 from the receipt in the space to the left of line 85.

### Line 86 – Total tax deducted ▲

If tax was withheld on any income earned by the trust, enter the amount of tax withheld on line 86. If an information slip is not available, attach a statement from the issuer, indicating the income reported and the tax withheld. **Do not** allocate the tax that was withheld to the beneficiaries.

**Transfer to Quebec** – If the trust was resident in Quebec and earned income outside that province, tax may have been withheld for a province or territory other than Quebec. You can transfer up to 40% of this amount to the Province of Quebec.

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

## Line 89 – Capital gains refund

This refund is available only to a mutual fund trust that has refundable capital gains tax on hand at the end of the year. To calculate the refund, complete Form T184, *1999 Capital Gains Refund for a Mutual Fund Trust*.

## Line 90 – Part XII.2 tax credit

If the trust is the beneficiary of another trust and received a T3 slip from that trust with an amount in box 38, enter that amount on line 90.

## Line 91 – Other credits

### Newfoundland research and development tax credit

You may be able to claim this credit if, in the year, the trust:

- had a business with a permanent establishment in Newfoundland; and
- made eligible expenditures for scientific research and experimental development carried out in Newfoundland.

In this case, complete Form T1129, *Newfoundland Research and Development Tax Credit (Individuals)*. Enter the credit on line 91.

You may designate some or all of this credit to beneficiaries of the trust. You do so by reducing the total credit by the amount designated to the beneficiaries.

### Yukon mineral exploration tax credit

You can claim this credit if the trust was a resident of the Yukon at the end of the year, and it incurred qualified mineral exploration expenses in the Yukon after March 31, 1999. The expenses must be incurred for the purposes of determining the existence, location, extent, or quality of a mineral resource in the Yukon.

On line 91, enter the tax credit from Form T1199, *Yukon Mineral Exploration Tax Credit*. Attach Form T1199 to the return.

### Line 94 – Refund or balance owing ▲

The refund or balance owing is the difference between the total taxes payable on line 84 and the total credits on line 93. A difference that is less than \$2 does not have to be paid, and will not be refunded.

### Line 95 – Amount enclosed ▲

Attach a cheque or money order payable to the Receiver General to the front of the return. Do not mail cash. To help us credit the correct account, write the trust’s name and account number on the back of the cheque or money order. Enter on line 95 the amount of the payment.

If you make a payment with a cheque that your financial institution does not honour (including a cheque on which you put a “stop payment”), we will charge you a fee. Generally, this fee will be \$15 for each returned cheque.

## Line 100 – Refund code ▲

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

- 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 and apply it to an expected assessment of an additional amount to be paid. Attach a letter providing details.

We consider the overpayment to have been received on the date we assess your return. 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.

## Name and address of person or company (other than trustee, executor, or administrator) who prepared this return

Complete this part 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 part.

# Chapter 3 – Trust Schedules

## Schedule 1 – Dispositions of Capital Property

If the trust disposed of capital property in the year, see the *Capital Gains* guide for the general rules regarding capital gains and losses. We explain the rules that relate to trusts in this section.

Complete Schedule 1 and file it with the return if the trust had dispositions or deemed dispositions of capital property during the year. Transfer any taxable capital gains at line 122 of Schedule 1 to line 01 of the return.

A disposition of capital property includes:

- the 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 property.

If the trust has deemed realizations resulting from the 21-year deemed realization rule, complete Form T1055, *Summary of Deemed Realizations*. For more information, see page 25. Do not report these deemed realizations on Schedule 1.

## Note

If the trust realized a capital gain from donating certain properties to a qualified donee other than a private foundation, complete Schedule 1A. For the definition of “qualified donee,” see the *Capital Gains* guide.

## Distribution of property to beneficiaries

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 return which includes the following information about the distributed property:

- name and address of the recipient or recipients;
- description;
- fair market value (FMV) on the day it is distributed; and
- cost amount on the day it is distributed.

For information regarding the distribution of property to a non-resident beneficiary, see “Proceeds of disposition” on page 22.

## Testamentary trust elections

As the legal representative, you can elect to transfer certain estate losses to the deceased person’s final T1 return. These elections are:

- the 164(6) election, for capital or terminal losses; and
- the 164(6.1) election, for deemed losses from employment from employee stock options that expired, were disposed of, or were exercised.

These elections apply only to the first taxation year of a deceased person’s estate. The elections do not affect the return of the deceased person for any year before the year of death.

To make either of these elections, attach a letter to the T3 return identifying the type of election. For the 164(6) election, the letter should contain the following:

- the amount of any capital or terminal loss to be transferred;
- a schedule with details of the capital loss, or a statement with details of the terminal loss; and
- a statement of the amount that would have been the capital or terminal loss, had the transfer not occurred.

File the election and an amended final T1 return, by the later of:

- the filing due date of the deceased person’s T1 return that the legal representative is required to file or has elected to file; and
- the filing due date for the estate’s T3 return for its first taxation year.

Clearly identify the amended final T1 return of the deceased person as a “164(6) election” or a “164(6.1) election.”

### 164(6) election

You can make this election for estate losses that occurred when the trust disposed of:

- the estate's capital property, resulting in more capital losses than capital gains; or
- 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 total of the trust's total non-capital loss and the farm loss calculated before the election.

The trust cannot claim losses that you have elected to transfer to the deceased person's final return. Any portion of the losses not transferred are subject to the usual loss provisions available to the trust.

#### Note

If the loss to be applied to the deceased person's final T1 return is known before that return is due to be filed, you can submit a request to apply the losses with the return. Clearly identify the return as a 164(6) election. Although the claim will not be allowed on the initial assessment of the T1 return, your request will be held until the T3 return is assessed and the claim can be verified. If the claim is accepted, the T1 return will be adjusted, and a *Notice of Reassessment* issued.

### 164(6.1) election

You can make this election for employee stock options that expired, or were exercised or disposed of, within the first taxation year of the estate. You 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. You can elect to treat this reduction in value as a loss from employment for the year in which the person died.

Use the following calculation to determine the amount that can be carried back to the deceased person's final return:

$$A - (B + C)$$

Where:

- A = the deemed benefit for the option included on the deceased person's final return
- 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 it
- C = one quarter of the amount by which A is more than B, if a stock option and share deduction for this option was claimed on the deceased person's final return

If you make this election, reduce the trust's adjusted cost base of the option by A minus B, without considering C.

### Capital gains

The taxable portion of a capital gain and the allowable portion of a capital loss is 75%.

The taxable capital gain on certain gifts to qualified donees, other than private foundations, is reduced from 75% to

37.5%. For more information, see Schedule 1A and the *Capital Gains* guide.

### Capital dispositions – Rules for trusts

Under proposed changes, a trust which distributes any property, including certain taxable Canadian property, to a non-resident beneficiary after October 1, 1996, is deemed to have disposed of such property for proceeds equal to the property's FMV at that time.

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, for proceeds equal to the property's FMV at that time, and reacquired the property, at the same value, immediately thereafter.

These rules do not apply to the following properties, among others:

- Canadian real estate;
- Canadian business property and inventory;
- pension and other similar rights;
- stock options; and
- certain property of short-term residents.

The trust or beneficiary can defer the payment of tax resulting from the deemed disposition by providing acceptable security. Contact us to arrange security.

A trust which ceases to be a resident of Canada any time after 1995, and owns property with a FMV more than \$25,000 at that time, has to file, with its income tax return for that year, a list of each property the trust owned at that time. A trust does not have to include personal-use property with a FMV less than \$10,000.

### Canadian cultural property

For information on dispositions of Canadian cultural property, see "Selling or donating certified Canadian cultural property" in the *Capital Gains* guide; Interpretation Bulletin IT-407, *Dispositions of Cultural Property to Designated Canadian Institutions*; and the *Gifts and Income Tax* pamphlet.

### Proceeds of disposition

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 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. We define "adjusted cost base" on the next page.

The cost amount of a depreciable property is calculated as follows:

- If the property was the only property in the class, the cost amount is the undepreciated capital cost (UCC) of the class before the distribution.

- If there is more than one property in the class, the cost amount of each property is as follows:

Capital cost of the property	×	UCC of the class	=	Cost amount of the property
Capital cost of all properties in the class that have not been previously disposed of				

For more information, see Appendix A on page 47 and Chapter 2 of the *Capital Gains* guide.

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 (FMV).

### Adjusted cost base

This is usually the cost of the property plus expenses incurred to obtain it. The adjusted cost base 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 more information, see the *Capital Gains* guide and Interpretation Bulletin IT-456, *Capital Property – Some Adjustments to Cost Base*, and its Special Release.

### Property acquired before 1972

Before 1972, capital gains were not taxed. Therefore, if the trust sold property acquired before 1972, you have to use special rules when calculating the capital gain or capital loss to remove any capital gains accrued before 1972. We do not explain these rules in this guide. To help you calculate the gain or loss from selling property the trust owned before 1972, use Form T1105, *Supplementary Schedule for Dispositions of Capital Property Acquired Before 1972*.

### Outlays and expenses

These are amounts incurred to sell a capital property. You can deduct outlays and expenses from the proceeds of disposition when calculating the capital gain or capital loss. These types of expenses include finder's fees, commissions, broker's fees, legal fees, and advertising costs.

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. Do not claim them as deductions from the trust's income.

### Lines 101 and 102

Capital gains reported on lines 101 and 102 may qualify for the \$375,000 capital gains deduction by a spousal trust, or by an individual beneficiary to whom the trust designates the eligible capital gains. For more information, see "Footnotes for line 926" on page 33, "Footnotes for line 930" on page 33, and "How to complete the T3 slip" on page 43.

### Line 101 – Qualified small business corporation shares

Use this section if you are filing a return for a personal trust reporting a capital gain or loss from the disposition of qualified small business corporation shares.

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 losses, see Line 25 on page 17.

A share in a small business corporation is considered to be a **qualified small business corporation share** if:

- at the time of disposition, it was a share of the capital stock of a small business corporation and it was owned by the trust, or a partnership related to the trust;
- 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 used mainly in an active business carried on primarily in Canada by the CCPC, or by a related corporation;
  - were certain shares or debts of connected corporations; or
  - were a combination thereof.

For the definition of a qualified small business corporation share, a person or a partnership is related to a personal trust in the following situations:

- the person or partnership is a beneficiary of the personal trust;
- 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.

For more information, see "Qualified small business corporation shares" in the *Capital Gains* guide.

### Line 102 – Qualified farm property

Use this section if you are filing a return for a personal trust reporting a capital gain or loss from the disposition of qualified farm property.

Qualified farm property of a personal trust includes the following property the personal trust owns:

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

For information about qualified farm property, see the *Farming Income*, or the *Farming Income and NISA* guides.

### Line 103 – Mutual fund units and other shares

Use this section to report a capital gain or loss when the trust sells mutual fund units, shares, or securities that are not described in any other section of Schedule 1.

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

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

Also use this section to report capital 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

Use this section if the trust sold real estate or depreciable property.

The trust cannot have a capital loss on the disposition of depreciable property. However, it can have a terminal loss under the capital cost allowance rules. For more information, see “Real estate and depreciable property” in the *Capital Gains* guide.

For information about the disposition of depreciable property owned on December 31, 1971, see Interpretation Bulletin IT-217, *Depreciable Property Owned on December 31, 1971*.

### Line 106 – Personal-use property

Use this section if the trust sold property used primarily for the personal use or enjoyment of a beneficiary under the trust, or any person related to the beneficiary. It includes personal residences, cottages, automobiles, and other personal and household effects. Report a capital gain for this type of property only if the proceeds of disposition are more than \$1,000. A capital loss is not allowed on personal-use property. For other special rules which apply to the disposition of this type of property, see “Personal-use property” in the *Capital Gains* guide and Interpretation Bulletin IT-332, *Personal-Use Property*.

#### Principal residence

If a personal trust acquires a principal residence, it will usually be exempt from tax on any capital gain on the disposition or deemed disposition of that residence. To be exempt, the residence has to qualify **and** be designated by the trust as its principal residence. Usually a residence can be designated if it is lived in by a specified beneficiary, or that beneficiary’s spouse, former spouse, or child. A specified beneficiary is one who had a beneficial interest in the trust, and who ordinarily lived, or has a spouse, former spouse, or child who lived, in the residence.

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.

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 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 post-1971 spousal trust), the trust can elect to have a deemed disposition of the principal residence at its fair market value (FMV). 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 its FMV.

For more information, see Form T1079, and Interpretation Bulletins IT-366, *Principal Residence – Transfer to Spouse, Spouse Trust or Certain Other Individuals*, and its Special Release, and IT-120, *Principal Residence*.

### Lines 107 to 109 – Listed personal property

Use this section to report dispositions of listed personal property (LPP), including all or part of any interest in, or any right to, the following properties:

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

Because 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. For the special rules which apply to the disposition of this type of property, see “Listed personal property” in the *Capital Gains* guide.

### Line 110 – Information slips

Use this line to report the following amounts:

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

If a slip identifies amounts for “qualified small business corporation shares” or “qualified farm property” in its footnote or details area, do not report these amounts on line 110. Instead, enter them at line 101 or 102, respectively.



## Line 113 – Capital losses from a reduction in business investment loss

For information on this type of loss, see “Reduction in business investment loss” on page 17.

## Line 114 – Capital gains reduction on flow-through entities

If the trust filed Form 94-115, *Election to Report a Capital Gain on Property Owned by a Trust at the End of February 22, 1994*, for its interest in, or shares of, a flow-through entity, it may have an exempt capital gains balance (ECGB). You can use the ECGB 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.

Use this line to claim a capital gains reduction. The reduction for each flow-through entity is limited to the ECGB for that entity. You cannot include the reduction on certain flow-through entities the trust donated. Instead, claim it on line 163 of Schedule 1A. For more information, see the *Capital Gains* guide.

## Line 117 – Capital gains (or losses) from reserves

If the trust sold capital property, but did not receive the full payment at the time of the sale, you can claim a reserve for the unpaid amount. Generally, the minimum amount of the trust’s capital gain you have to report each year is one-fifth of the taxable capital gain. If you claimed a reserve in 1998, you have to bring it back into the trust’s income in 1999. If any of the proceeds are to be paid after the end of the year, you may be able to 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 *Capital Gains* guide and Interpretation Bulletin IT-236, *Reserves – Disposition of Capital Property*.

## Line 119 – 50% of capital gains from gifts of certain capital property

Enter the amount from line 195 of Schedule 1A.

On line A, below line 119, enter the capital gains on gifts of property other than the gains included on line 195 of Schedule 1A. These are the total of any gains from gifts that are included in lines 101 to 107 minus any amount included on line 114 relating to those gifts.

## Line 122 – Total taxable capital gains (or net capital losses)

Transfer the total taxable capital gains to line 01 of the return. If the amount on this line is negative, you have a net capital loss. Do not enter it on line 01. See “Form T3A, *Request for Loss Carryback by a Trust*” on page 19. If you calculate a net capital loss on Form T1055, *Summary of Deemed Realizations*, see the instructions on that form for a possible adjustment to line 122.

## Capital gains deduction

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 it did 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 return.

## Form T1055, Summary of Deemed Realizations

### Deemed realization (disposition)

On specified dates during the life of a trust, it is deemed to have disposed of its capital property (other than certain excluded property), land inventory, and Canadian and foreign resource properties. We refer to these dates as “deemed realization days.” You have to report the resulting income, gains, or losses on the trust’s 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” on page 26.

In addition to the properties referred to above, if a post-1971 testamentary spousal trust holds a NISA Fund 2 that was transferred to it on the death of the settlor, report a deemed payment out of the fund on the day the beneficiary spouse dies. For more information, see Line 10 on page 16.

Use Form T1055 to calculate the income, gain, or loss from deemed realizations. Enter the amount from line 42 of Form T1055 on line 11 of the return.

### Note

If the trust actually disposed of the property before the end of the taxation year, use Schedule 1 to report the actual disposition, unless the trust is a post-1971 spousal trust.

If a deemed disposition occurs, the 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 deemed realization day, at the fair market value (FMV); and
- reacquired them immediately after, at a cost equal to the same FMV.

For depreciable property, the trust has to report both capital gains and recapture of capital cost allowance.

Use Form T1055 to calculate:

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

For more information about 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

This is the day we consider the trust to have disposed of its capital property, land inventory, and Canadian and foreign resource properties.

Generally, it is one of the following:

- for a spousal trust, the day the beneficiary spouse dies;
- for a trust that elected to defer the deemed realization day, January 1, 1999 (unless a deemed realization has already occurred because of the death of the last exempt beneficiary); or
- 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.

### Exemption from the 21-year rule

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

- A. an amateur athlete trust;
- B. an employee trust;
- C. a master trust;
- D. trusts governed by:
  - a deferred profit-sharing plan;
  - an employee benefit plan;
  - an employees profit-sharing plan;
  - a foreign retirement arrangement;
  - a registered education savings plan;
  - a registered pension plan;
  - a registered retirement income fund;
  - a registered retirement savings plan; or
  - a registered supplementary unemployment benefit plan;
- E. a related segregated fund trust;
- F. a retirement compensation arrangement trust;
- G. a trust whose direct beneficiaries are one of the above-mentioned trusts;
- H. a trust governed by an eligible funeral arrangement or a cemetery care trust;
- I. a communal organization;
- J. a unit trust; and
- K. 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 (all trusts other than personal trusts) that do not qualify as unit trusts. It does not apply to:
  - a post-1971 spousal trust;
  - a trust that elected on Form T1015 to defer the deemed realization day;

- a trust that elects on its return for the first taxation year ending after 1992 not to apply this provision; or

- under proposed changes, a resident trust with a non-resident beneficiary.

### Election to defer the deemed realization day

Capital property, land inventory, and resource property held on January 1, 1999, by a trust that elected to defer the deemed realization day are deemed to have been disposed of on January 1, 1999, for proceeds equal to their FMV. The only exception to this rule is when a deemed realization day has already occurred because of the death of the last exempt beneficiary. You must complete Form T1055 for the 1999 taxation year for all the trust's property.

A trust which filed Form T1015 may have transferred property to another trust during the period beginning on the day after the original deemed realization day and ending on the newly determined realization day. If it made this transfer in circumstances which would not otherwise have given rise to a disposition, the property is considered to have been disposed of for proceeds equal to its FMV. This rule does not apply if the terms of the trust before the transfer were identical to the terms of the transferee trust after the transfer, and if the transferee trust held no assets before the transfer.

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

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 this election on Form T2223, and file it at your tax services office no later than the day the return is due for the taxation year the deemed realization occurs. For more information on this election, call us.

### Transfer of trust property to another trust

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

- Trust A's deemed realization day that would have occurred if the transfer had not been made;
- Trust B's deemed realization day that would have occurred if the transfer had not been made;
- the day after the transfer, if Trust B had filed an election on Form T1015, and the new deemed realization day has not occurred; and
- the day after the transfer, if Trust B is a spousal trust, and the beneficiary spouse is still alive at the time of the transfer.

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

- on or before December 20, 1991, if **either** Trust A or Trust B was a spousal trust; or
- after December 20, 1991, if **both** Trust A and Trust B are spousal trusts.

**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	Pre-1972 spousal trust	Other trusts and spousal trusts 21 years after first deemed disposition
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 the beneficiary spouse dies (Schedule 5)	yes	yes	no
Designate capital gains (box 21 of the T3 slip)	no	yes	yes
Preferred beneficiary election	no	no	yes (no, if the trust previously filed Form T1015)

### **Schedule 7 – Pension Income Allocations and Designations** ▲

Complete this schedule only if you are designating pension income to beneficiaries of a testamentary trust. How this income is designated will affect its tax treatment for the beneficiaries.

Enter the pension income in one of the following columns on Schedule 7:

- Column A Lump-sum pension income designated to a beneficiary spouse that qualifies for a transfer to a registered retirement savings plan or to a registered pension plan.
- Column B Other pension income.
- Column C Pension income designated to a beneficiary spouse that qualifies for the pension income non-refundable tax credit.
- Column D Pension income that qualifies for a transfer to acquire an eligible annuity for a minor beneficiary.

For more information on pension income or transfers, see the *RRSPs and Other Registered Plans for Retirement* guide.

### **Schedule 8 – Investment Income, Carrying Charges, and Gross-up Amount of Dividends Retained by the Trust** ▲

#### **Line 805 – Actual amount of dividends from taxable Canadian corporations**

Attach a statement listing the actual amount of dividends the trust received from taxable Canadian corporations. These amounts are shown in box 23 on a T3 slip, and in box 10 on a T5 slip issued to the trust. In this statement, include actual and deemed taxable dividends. Do not include non-taxable dividends, as explained at Lines 809

to 815, or capital gains dividends that you report on line 110 of Schedule 1. We consider dividends credited to the trust by a financial institution to have been received by the trust, even if the trust did not receive a T3 or a T5 slip.

The grossed-up amount of taxable dividends received from taxable Canadian corporations qualifies for the dividend tax credit. This may reduce the trust's tax payable. If the trust designated the taxable dividends to individual beneficiaries, the tax payable by the beneficiaries may be reduced.

#### **Lines 806 to 808 – Foreign investment income**

Report investment income from foreign sources in Canadian dollars. Calculate how much to report by multiplying the foreign income by the exchange rate in effect on the day that the trust received the income. If the amount was paid at various times throughout the year, contact us to get the applicable rate. Report the full amount of the foreign income. Do not reduce it by the tax withheld by foreign authorities.

#### **Lines 809 to 815 – Other investment income**

Report bond interest, bank interest, mortgage interest, and other dividends, including dividends under a dividend rental arrangement. We consider interest and dividends credited to the trust's account by a financial institution to have been received by the trust.

Report interest on tax refunds received in the year on line 814.

**Do not** include the following:

- dividends the trust received from taxable Canadian corporations reported on line 805;
- capital gains dividends reported on line 110 of Schedule 1; and
- non-taxable dividends discussed in the next section.

For more information on the method of reporting interest and other investment income, see the *General Income Tax and Benefit Guide* and Interpretation Bulletin IT-396, *Interest Income*.

### **Non-taxable dividends received by a trust**

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

Certain non-taxable dividends that the trust received, 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. Make this adjustment when 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 in income. You also have to file a statement with the return containing the following information:

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

### **Lines 816 to 820 – Carrying charges and interest expenses**

Carrying charges and interest expenses include:

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

Attach a statement to the return, listing the types and amounts of carrying charges that the trust claimed. If the trust is claiming interest on money borrowed, provide the following details:

- the name of the lender;
- the date and the amount of the loan;
- the interest rate;
- the terms of repayment; and
- the balance of the loan at the end of the taxation year.

If the trust has carrying charges for Canadian and foreign investment income, identify them separately, according to the percentage that applies to each investment.

Do not include trustee fees paid by the trust or brokerage fees or commissions paid by the trust to buy or sell securities. If the trust paid these expenses to purchase a security, they are part of its cost. If the trust paid them to sell a security, claim them as "Outlays and expenses from dispositions" in column 4 of Schedule 1.

You can deduct interest expenses 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, you cannot deduct it 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 taxation 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 821 to 826 – Calculating the gross-up amount of dividends retained or not designated by the trust**

Use this section to calculate the gross-up amount of actual dividends from taxable Canadian corporations included on line 805 and that the trust retained. The gross-up rate for dividends received is 25% of the dividends received.

#### **Note**

The gross-up does not apply to taxable Canadian dividends received by the trust if they are allocated to a non-resident beneficiary.

Enter dividends allocated but not designated to a non-resident beneficiary on line 824.

### **Line 821 – Total dividends reported before applying expenses**

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

### **Line 822 – Dividends designated to beneficiaries**

Enter the amount of net dividends, after related expenses, that you designated to beneficiaries from line 923 of Schedule 9. 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 but not designated**

Enter the amount of net dividends, after related expenses, included in Column 2, 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**

Multiply the amount on line 825 by 25% to calculate the amount 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 the related expenses.

Enter this amount on:

- line 49 of the return; and
- the calculation area for line 1111 of Schedule 11; or

- line A used in the calculation of line 1219 in Part 1 of Schedule 12, if applicable.

Claim the carrying charges that relate to dividends on line 819 of Schedule 8.

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

## Schedule 9 – Income Allocations and Designations to Beneficiaries ▲

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

### Allocations and designations ▲

Generally, you **allocate** income to the trust’s beneficiaries according to the terms of the will or trust document. Depending on the type of income allocated, you may then **designate** part or all of the allocated amount. When you designate an amount to a beneficiary, the type of income keeps its identity. This may allow the beneficiary to take advantage of a deduction or credit that applies to that income (such as the capital gains deduction or dividend tax credit).

See the Glossary for a definition of the terms “allocate, allocation,” and “designate, designation.”

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

- net taxable capital gains;
- certain lump-sum pension income;
- dividends from taxable Canadian corporations;
- foreign business income;
- foreign non-business income;
- pension income that qualifies for acquiring an annuity for a minor beneficiary;
- retiring allowances that qualify for a transfer to a registered pension plan or a registered retirement savings plan; and
- pension income that qualifies for the pension income amount.

#### Note

An insurance segregated fund trust has to designate all its capital losses to a beneficiary.

Use Part B of Schedule 9 to report designated amounts. This includes amounts such as foreign income tax paid, a Part XII.2 tax credit, income which can be transferred to tax-deferral plans, and other tax credits that flow through to the beneficiary.

For more information, see the following Interpretation Bulletins:

- IT-342, *Trusts – Income Payable to Beneficiaries*;

- IT-381, *Trusts – Capital Gains and Losses and the Flow-Through of Taxable Capital Gains to Beneficiaries*; and
- IT-524, *Trusts – Flow Through of Taxable Dividends to a Beneficiary – After 1987*.

### Exceptions and limits to income allocations

Generally, trust income has to be allocated to beneficiaries, or taxed in the trust, according to the provisions of the will or trust document, with the following exceptions and limits:

- 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;
  - deemed 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 2 that arose on the death of a beneficiary spouse.
- The trust cannot deduct income from payments out of NISA Fund 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 20, 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 after 1934 may have property (or property substituted for it) that:
  - may revert to the contributor;
  - may be distributed to beneficiaries determined by the contributor at a time after the trust was created; or
  - may only be disposed of with the consent of, or at the direction of, the contributor while alive.

We consider any income, including taxable capital gains and allowable capital losses from that property, to belong to the contributor during the contributor’s lifetime while a resident of Canada. For more information about these inter vivos trusts and the attribution rules, see Interpretation Bulletin IT-369, *Attribution of Trust Income to Settlor*, and its Special Release.

- A trust cannot allocate capital losses and non-capital losses to beneficiaries of a trust except:
  - capital losses, if it is an insurance-related segregated fund trust; and
  - 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 in the footnote area below box 41 on the T3 slip.

- We consider income that was not paid or payable to a beneficiary to be allocated to a beneficiary if he or she has a vested right to its income, and:
  - 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 by the end of the year, did not become vested due to 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.

### Income to be taxed in the trust ▲

You can choose to report income on the trust return, rather than report it in the hands of the beneficiaries, as long as the trust is:

- resident in Canada throughout the year;
- not exempt from tax; and
- not a trust type A to I, described in “Exemption from the 21-year rule,” on page 26.

This applies to income paid or payable to beneficiaries.

The choice of reporting income on the trust’s return is called a **designation under subsection 104(13.1)**. You make this choice by stating on the return for the year that a designation is being made under subsection 104(13.1). Once you make this choice, you cannot deduct at line 47 the income designated in the election.

Once you make the choice, you have to make it for each beneficiary. It reduces a beneficiary’s income from the trust by that beneficiary’s proportionate share of the income reported on the trust’s return. We show you how to calculate the proportionate share in the following section.

You can make a similar **designation under subsection 104(13.2)** if taxable capital gains are included in the income reported on the trust’s return. This will reduce the beneficiary’s taxable capital gains from the trust by that beneficiary’s proportionate share of taxable capital gains reported on the trust’s return.

For example, you can use this designation in a year when a trust has a taxable capital gain and a non-capital loss carryforward. By making the subsection 104(13.2) designation, you can use the trust’s non-capital loss carryforward to absorb the current-year taxable capital gain.

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

If you choose to designate any portion of the beneficiary’s income to be reported on the trust return:

- answer yes to Question 9 on page 1 of the return; and
- attach a statement to the 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 return. After you file the return, you cannot make, change, or withdraw these designations.

For more information, see Interpretation Bulletins IT-342, *Trusts – Income Payable to Beneficiaries*, and IT-381, *Trusts – Capital Gains and Losses and the 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. A trust cannot use these designations to tax one beneficiary’s share in the trust and allocate another share to a beneficiary unless the trust agreement entitles one beneficiary to the trust’s income and another beneficiary to the trust’s capital.

#### Subsection 104(13.1)

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

Where:

A = Beneficiary’s share of trust income (calculated without reference to the Act)

B = Total of amount A for all beneficiaries

C = Trust income designated under subsection 104(13.1)

#### Subsection 104(13.2)

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

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 = Net taxable capital gains designated under subsection 104(13.2)

### Example

A trust’s income is \$9,000, comprised of investment income of \$6,000 and taxable capital gains of \$3,000. Both are shared equally between the trust’s two beneficiaries, Bonnie and Ian. The trust has \$6,000 in losses from prior years to apply: a non-capital loss of \$5,000 and a net capital loss of \$1,000. Therefore, the trustee decides to report \$6,000 of income on the trust return by designating \$5,000 under subsection 104(13.1) and \$1,000 of taxable capital gains under subsection 104(13.2), against which the losses are applied.

Determine the amount designated under subsection 104(13.1) for Bonnie as follows:

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

$$\frac{\$3,000}{\$6,000} \times \$5,000 = \$2,500$$

Therefore, the amount designated for Bonnie is \$2,500. Because Ian shares equally, his calculation is the same.

Determine the amount designated under subsection 104(13.2) for Bonnie as follows:

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

$$\frac{\$1,500 \times \$1,000}{\$3,000} = \$500$$

Therefore, the amount designated for Bonnie is \$500. Because Ian shares equally, his calculation is the same.

### Preferred beneficiary election

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. You can deduct the elected amount from the trust's income, up to the amount of the accumulating income. The elected amount for a preferred beneficiary must not be more than the allocable amount of the trust's total accumulating income. See the definition of "preferred beneficiary" on page 5.

Trusts that are exempt from the 21-year rule cannot make a preferred beneficiary election. We list these trusts under "Exemption from the 21-year rule" on page 26.

A trust's accumulating income for the year is generally its income for the year after deductions, but without regard to amounts allocated under preferred beneficiary elections.

Accumulating income for a spousal trust or a trust that previously filed Form T1015, *Election by a Trust to Defer the Deemed Realization Day*, **does not** include:

- the income from the deemed realization of property under the 21-year rule (taxable capital gains minus allowable capital losses, and other income). For more information, see "Deemed realization (disposition)" on page 25; or
- income arising from the deemed realization of property which is distributed to a beneficiary other than the beneficiary spouse during the spouse's lifetime.

Accumulating income of a trust does not include amounts paid or deemed to have been paid from NISA Fund 2. However, a preferred beneficiary election can include these amounts paid to a testamentary spousal trust while the beneficiary spouse was still alive.

#### Note

Accumulating income is calculated as if you have deducted the maximum amount of income as became payable in the year to the beneficiary.

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 no disposition of capital property, land property in inventory, or resource property, before the end of the day the beneficiary spouse died.

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

- a statement making the election for the year, stating the part of the income on which you are making the election, and signed by both the preferred beneficiary (or

guardian) and the trustee with the authority to make the election; and

- a statement signed by the preferred beneficiary (or guardian) indicating the beneficiary's social insurance number, his or her relationship to the settlor of the trust, and whether:
  - the beneficiary is claiming a disability amount;
  - a supporting individual is claiming a disability amount for that beneficiary (if yes, provide the name, address, and social insurance number of the supporting individual); or
  - the beneficiary is 18 or older, and in the beneficiary's taxation year which ends in the trust's taxation year, another individual can claim an amount for an infirm dependant age 18 or older for that beneficiary, or could claim the amount if the beneficiary's income is calculated before including the income from the preferred election (if this is the case, provide a statement from the doctor, optometrist, audiologist, occupational therapist, or psychologist confirming the beneficiary's infirmity in the first year the claim is made).

File the election, with the 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. For more information regarding late-filed or amended elections, see "Elections" on page 12.

If you are making a preferred beneficiary election, see Interpretation Bulletin IT-394, *Preferred Beneficiary Election*.

### How to complete Schedule 9 ▲

Report allocated income using the columns provided:

- Column 1 – income paid or payable to **resident** beneficiaries;
- Column 2 – income paid or payable to **non-resident** beneficiaries; and
- Column 3 – income allocated by **preferred beneficiary election**.

See the appropriate column heading in the following sections for more information. Any amounts allocated to a beneficiary on lines 921 to 926 are generally deducted from the trust's income.

If you claimed expenses on line 41 of the return, you have to deduct them from specific types of income before the trust can allocate the income to the beneficiaries. You have to apportion the expenses that relate to more than one source of income to the applicable sources of income. If you allocate all of the income to the 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*.

## Column 1 – Resident ▲

Include in this column allocations and designations 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, enter the total amount on line 926. If you are designating the income, enter the amounts at the appropriate lines. In addition, use Part B for other amounts you are designating to the beneficiaries.

For more information, see:

- “Allocations and designations” on page 29;
- Interpretation Bulletin IT-286, *Trusts – Amount Payable*; and
- IT-342, *Trusts – Income Payable to Beneficiaries*.

## Column 2 – Non-resident ▲

Include in this column allocations and designations of income paid or payable to non-resident beneficiaries. If the income is allocated, but no amounts are designated, enter the total amount on line 926. Report the total of the amounts in column 2 as estate or trust income on an NR4 slip, not on a T3 slip.

Most amounts paid or payable to non-resident beneficiaries are subject to a Part XIII withholding tax. See Lines 1029 to 1031 on page 36. Enter the total of column 2 on line 1020 of Schedule 10.

If you allocate 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 on page 34.

## Column 3 – By preferred beneficiary election ▲

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 3 to allocate and designate the elected accumulating income. Complete a separate T3 slip for this income.

You can designate the following types of income 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 the income is allocated but no amounts are designated, enter the total amount on line 926. If you are designating the income, enter the amounts at the appropriate lines. In addition, use Part B for other amounts you are designating to the beneficiaries.

## Part A – Total income allocations and designations to beneficiaries ▲

### Lines 921 to 928 ▲

Answer all three questions, and attach any necessary statements. For information about income attributed to the transferor, see “Transfers and loans of property” on page 14.

### Line 921 – Taxable capital gains ▲

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 it to be the beneficiary’s taxable capital gain.

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

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

Use the chart on the next page to calculate the amount of net taxable capital gains you can designate.

The amounts you enter on line 921 should also include:

- net taxable capital gains allocated to a non-resident beneficiary; and
- net taxable capital gains allocated by a trust governed by an employee benefit plan.

If you complete line 921 and you are allocating capital gains eligible for the capital gains deduction, you also have to complete line 930. The only taxable capital gains eligible for this 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 gain 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.

### Line 922 – Lump-sum pension income ▲

A testamentary trust can designate certain pension income, superannuation benefits, and amounts received from a deferred profit-sharing plan to a beneficiary.

Enter on line 922, those amounts from Schedule 7 that qualify for a transfer to a registered pension plan or a registered retirement savings plan.



**Maximum net taxable capital gains available for designation in the current year**

Total taxable capital gains (see Note 1).....	_____	1
Net capital losses of other years deducted in the current year (line 52 of the return) .....	- _____	2
Net taxable capital gains of the current year (line 1 <b>minus</b> 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 (see Note 2).....	+ _____	5
Line 4 <b>plus</b> line 5.....	= _____	6
Line 3 <b>minus</b> line 6.....	= _____	7
Amount from line 46 of the return .....	_____	8
Maximum net taxable capital gains available for designation in current year ( <b>lesser</b> of line 7 or 8) .....	=====	9

Include the designated amount on line 921 of Schedule 9.

Note 1: If line 1 includes any deemed taxable capital gains (including gifts of capital property), call us for further instructions.

Note 2: 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 gains you designate to a beneficiary accordingly. See "Income to be taxed in the trust" on page 30.

**Line 926 – Other income** ▲

Enter all income allocated to beneficiaries that is not shown on lines 921 to 925. This includes business income, rental income, farming income, fishing income, interest income, pension income, death benefits, retiring allowances, and dividends under a dividend rental arrangement. Include any amount claimed on line 40 for the upkeep, maintenance, and taxes of property used or occupied by a beneficiary, and the amount claimed on line 44 for the value of other benefits to a beneficiary.

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. Include these amounts on line 926, and show the amount which qualifies for a transfer on line 936-1. For more information, see Schedule 7 on page 27.

**Footnotes for line 926**

Enter on line 926-1 the amount of business income, included on line 926, 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 its members. Business income that a member received from the communal organization is considered self-employment earnings for determining Canada Pension Plan contributions. For more information, see Information Circular 78-5, *Communal Organizations*.

**Line 928 – Total** ▲

The total of lines 921 to 926 is the income allocated to the beneficiaries. The amount cannot be more than "Income before allocations" on line 46 of the return.

**Part B – Summary of other amounts designated to beneficiaries**

**Lines 930 to 945** ▲

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 qualifying for a transfer.

**Line 930 – Taxable capital gains eligible for deduction**

A personal trust that makes a 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. Enter on line 930 the amount on line 921, or line 334 of Schedule 3 minus the amount on line 926-1, whichever is less.

**Footnotes for line 930**

Enter on line 930-1 the eligible taxable capital gains from qualified farm property, which is the **lesser** of:

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

Enter on line 930-2 the eligible taxable capital gains from qualified small business corporation shares, which is the **lesser** of:

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

**Line 931 – Qualifying pension income** ▲

Enter those amounts from Schedule 7 that qualify for the pension income amount. You can make this designation only if the beneficiary was the spouse of the deceased, and if the trust received the benefits of a life annuity from a superannuation or pension plan. For more information, see Schedule 7 on page 27.

**Line 932 – Taxable amount of dividends** ▲

Enter the amount from line 923 of the **actual** amount of dividends, designated to a beneficiary who is either an individual or a trust (other than a registered charity), multiplied by 1.25.

## Line 934 – Foreign non-business income tax paid

If you are designating a foreign tax credit to a beneficiary, you have to submit an official 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 see Line 1118 on page 38.

## Line 935 – Eligible death benefits ▲

A testamentary trust may receive a payment as a result of the employee's death to recognize 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 the employer established. This payment may qualify as a **death benefit**, and the trust may be able to exclude up to \$10,000 of the amount from income.

If you allocate the total death benefit to a single beneficiary according to the provisions of the will, the beneficiary may be able to exclude up to \$10,000 of the payment from income. Enter on line 935, the amount from line 926 eligible for this exclusion.

If you allocate the total death benefit to more than one beneficiary, apportion the amount eligible for this exclusion among those beneficiaries. The total eligible amount apportioned cannot exceed \$10,000. The beneficiaries can use this information to calculate the taxable portion that they have to report on their T1 returns.

If you exclude the eligible death benefit from the trust's income, 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 the return. For more information, see Line 19 on page 16.

## Line 936 – Miscellaneous ▲

Enter the amount from Column D of Schedule 7 on line 936-1. Enter any retiring allowance eligible for a transfer on line 936-2. Enter charitable donations designated to the beneficiaries of a communal organization on line 936-3.

## Line 937 – Insurance segregated fund capital losses

Enter the designated portion of net capital losses from the disposition of property by an insurance segregated fund.

## Line 938 – Part XII.2 tax credit

Calculate the amount for line 1010 of Schedule 10, and enter it here. Generally, you can designate the Part XII.2 tax credit only to those resident beneficiaries to whom you allocated income in column 1 of line 928, Schedule 9.

## Line 939 – Federal dividend tax credit ▲

Enter the amount on line 932 multiplied by 13.33%.

## Lines 940 and 941 – Investment tax credit (ITC) designated

Only testamentary trusts and communal organizations that are deemed inter vivos trusts can designate an ITC to their beneficiaries.

Complete Section 1 of Form T2038(IND), *Investment Tax Credit (Individuals)*, to calculate the amount of the investment cost or expenditure, and the ITC available. 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 ITC by any amount allocated to beneficiaries.

Enter the beneficiaries' share of the trust's investment cost or expenditures on line 940. You need this amount to determine the amount of the ITC you can designate to each beneficiary.

Enter on line 941, the amount of the trust's ITC from Form T2038(IND) that you designated to a beneficiary, and did not deduct on line 1120 of the trust's Schedule 11.

## Line 945 – Other credits

### Newfoundland research and development tax credit

Enter the amount of this credit that you designated to a beneficiary and did not deduct on page 4 of the return. For more information, see "Newfoundland research and development tax credit" on page 20.

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

Complete Schedule 10 if the trust is allocating income to non-resident or other designated beneficiaries (see the next page for details). 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 the income if the beneficiaries were resident in Canada.

### Part A – Calculating Part XII.2 tax and the refundable Part XII.2 tax credit Lines 1001 to 1010

Pay any Part XII.2 tax no later than 90 days after the trust's taxation year end.

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;
- trust types B, C, D, or I, in "Exemption from the 21-year rule" on page 26;
- a trust that was exempt from Part I tax under subsection 149(1); or
- a non-resident trust.

Part XII.2 tax **applies** when a trust:

- has specified income as described below;
- has a designated beneficiary as described on this page; and
- allocates or designates any of its income.

### Specified income

Specified income of a trust generally means its taxable capital gains or allowable capital losses from the disposition of taxable Canadian property **and** the total income (or loss) from the following sources:

- businesses carried on in Canada;
- real properties located in Canada, for example, land or buildings;
- timber resource properties; and
- Canadian resource properties the trust acquired after 1971.

#### Note

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

### Designated beneficiary

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

- a non-resident person;
- a non-resident owned investment corporation;
- a trust, other than a testamentary trust, a mutual fund trust, or a trust exempt from Part I tax under subsection 149(1), resident in Canada whose beneficiaries include a designated beneficiary;
- a partnership whose members include a designated beneficiary; or
- a person exempt from Part I tax under subsection 149(1), if that person acquired an interest in the trust, directly or indirectly, from a beneficiary of the trust after October 1, 1987.

#### Note

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

- after either October 1, 1987, or the date the interest was created, whichever is later, any person exempt from Part I tax continuously held the interest; or
- the person exempt from tax 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 that 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 Line 1009 on this page.

### Eligible beneficiary

This term is used for a beneficiary who is not a designated beneficiary as described above. An eligible beneficiary is generally a Canadian resident who is entitled to a refundable Part XII.2 tax credit in proportion to the share of allocated or designated trust income. You have to include an amount equal to the Part XII.2 tax credit in the income allocated to the beneficiary. In effect, this 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

This is the total of lines 1001 to 1005, which represents the specified income of the trust. Part XII.2 tax does not apply if the amount on line 1006 is negative.

### Line 1007 – Adjusted amount allocated and designated to beneficiaries

Enter the amount from column 1 of line 928, Schedule 9, on line A in the calculation area. Enter the amount from column 2 of line 928, Schedule 9, on line B. Subtract the taxable benefit you reported on line 44 of the return on line D.

Line 1007 represents the following amounts:

- the deduction from trust income for the portion of the trust’s income you allocated to resident and non-resident beneficiaries, to be included in their income; and
- the deduction from trust income for the Part XII.2 tax the trust paid for the year.

Withhold the Part XII.2 tax from income you distribute to the beneficiaries.

### Line 1008 – Part XII.2 tax

Multiply the **lesser** of the amount on line 1006 and the amount on line 1007 by 36% to calculate Part XII.2 tax payable by the trust. Enter this amount on line 83 of the return.

### Line 1009 (Adjustment for Part XIII tax purposes)

On this line, calculate the amount of Part XII.2 tax that 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

This is the amount of Part XII.2 tax attributable to eligible beneficiaries. It is also 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 paid 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)

C = adjusted allocations or designations for the year (line 1007)

## Part B – Calculating Part XIII non-resident withholding tax Lines 1020 to 1031

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

### Line 1025 – Amounts not subject to Part XIII tax: Other

One example of an amount 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 it 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.

### Lines 1029 to 1031 – Non-resident tax payable

Complete the rest of this schedule by referring to the NR4 return for the trust.

Every non-resident person has to pay Canadian income tax of 25% under Part XIII of the Act, unless a tax treaty or convention 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. You have to withhold and remit tax on these amounts. This tax has to be received by the Canada Customs and Revenue Agency or 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. Send any balance due to us, with Form NR76, *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, send us a statement with the trust's name and address, the type of payment (Part XIII tax), and the month during which you withheld the tax. When we receive the payment, we will issue a Form NR76 receipt. You can use the bottom portion for remitting future payments.

You also have to complete an NR4 Summary, *Return of Amounts Paid or Credited to Non-Residents of Canada*, and an NR4 slip, *Statement of Amounts Paid or Credited to Non-Residents of Canada*.

For more information on non-resident income tax, see:

- Information Circular 76-12, *Applicable Rate of Part XIII Tax on Amounts Paid or Credited to Persons in Treaty Countries*, and its Special Release;
- Information Circular 77-16, *Non-Resident Income Tax*; and
- Interpretation Bulletin IT-465, *Non-Resident Beneficiaries of Trusts*.

### Example

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 trust has \$1,400 net income for the year, which includes net business income (from a business carried on in Canada) of \$1,000, and net interest income of \$400.

On Schedule 10, the trustee 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 1 and 2 of line 928 of Schedule 9;
- enter the **lesser** of lines 1006 (\$1,000) and 1007 (\$1,400) in the calculation area for line 1008;
- multiply \$1,000 by 36%, and enter the result (\$360) on line 1008;
- calculate the amount that is not subject to Part XIII non-resident tax by completing the calculation area for line 1009 (divide \$700 by \$1,400 and multiply by \$360). Enter the result (\$180) on line 1009 and on line 1026; and
- calculate the amount of refundable Part XII.2 tax credit on line 1010 by subtracting line 1009 (\$180) from line 1008 (\$360). 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 is entered in box 26 on the T3 slip, is the 50% portion of the trust income distributed to him under the terms of the trust agreement. On his T1 return for 1999, he will claim a refundable Part XII.2 tax credit of \$180.

Meg received \$520. This amount, which is entered on the NR4 slip, is the 50% of the trust income distributed to her under the terms of the trust agreement. On Schedule 10, the trustee reduces the total income paid or payable to non-resident beneficiaries (line 1020) by the Part XII.2 tax (line 1026). Line 1028 (\$700 – \$180 = \$520) is the amount subject to non-resident tax.

## Completing the NR4 return

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

Report the total trust income you allocated to a non-resident beneficiary as estate and trust income on the NR4 return. Types of income, 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 slip.

File this return no later than 90 days after the end of the trust’s taxation year.

## Schedule 11 – Federal Income Tax

Use Schedule 11 to determine the federal income tax and federal individual surtax payable by the trust.

### Note

The trust may be subject to minimum tax. For more information, see Schedule 12 on page 40.

## Lines 1104 and 1107 – Total federal tax on taxable income

### Testamentary and grandfathered inter vivos trusts ▲

Federal tax rates for individuals apply to all testamentary trusts and to grandfathered inter vivos trusts. For more information on grandfathered inter vivos trusts, see “Types of trusts” on page 7.

### Inter vivos trusts

An inter vivos trust, other than a grandfathered inter vivos trust, is taxed at 29% of its taxable income. For more information, see Interpretation Bulletin IT-406, *Tax Payable by an Inter Vivos Trust*.

## Line 1109 – Tax adjustments – Lump-sum payments – ITAR 40 ▲

Use this line to add items, such as the reduced tax that applies to lump-sum payments under section 40 of the *Income Tax Application Rules* (ITAR 40). You do not have to enter an amount on this line if you indicate “ITAR 40” on this line and on line 02 of the return. We will calculate your tax adjustment. Attach any information slips the trust received.

## Line 1111 – Federal dividend tax credit ▲

Enter the amount of the federal dividend tax credit on dividends the trust received from taxable Canadian corporations in the taxation year.

The dividend tax credit is 2/3 of the gross-up amount you calculated on line 826 of Schedule 8.

### Note

Foreign dividends do not qualify for this credit.

## Line 1112 – Donations and gifts tax credit ▲

Attach official receipts for all claims. There are four types of donations or gifts:

- Donations to qualified donees – See the *Gifts and Income Tax* pamphlet for types of organizations that qualify.
- Gifts to Canada, a province, or a territory.
- Gifts of cultural property – Attach both the official receipt from the institution and Form T871, *Cultural Property Income Tax Certificate*, issued by the Canadian Cultural Property Export Review Board.
- Gifts of ecological property – Attach the official receipt and the *Certificate for Donation of Ecologically Sensitive Land* issued by the Minister of the Environment.

### 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, claim the donation on the deceased person’s T1 return, either in the year of death or in the year before the year of death, or claim part of the donation on each return.

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 recipient as an income beneficiary and deduct the donation as an allocation of trust income on line 47 of the 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 recipient as an income beneficiary and deduct the amount on line 47 of the return; or
- claim a non-refundable tax credit on line 1112 of Schedule 11.

When you are claiming a donation on the return, either as an income allocation or for a non-refundable tax credit, you should indicate on the return whether the donation is a one-time or periodic payment as provided in the will, or if it was made at your discretion.

### Inter vivos trust

If the recipient is an income beneficiary according to the terms of the trust agreement, deduct the donation on line 47 of the 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 of Schedule 11.

### Maximum claim and carryover

The maximum claim for donations and gifts in the year is the sum of:

- 75% of the trust’s net income (line 50);
- 25% of the taxable capital gains from the donation of capital property, less any capital gains deduction claimed against that property; and
- 25% of the recapture of capital cost allowance reported as a result of making the gift.

**Note**

The limit of 75% of net income does not apply to gifts to Canada, a province, or a territory, which were made or agreed to before February 19, 1997, or to gifts of cultural or ecological property.

For more information on calculating the maximum claim, see the *Gifts and Income Tax* pamphlet.

Claim any portion of the trust's total donations, up to the maximum limit. Any unused portion can be carried forward for five years.

If the trust donates an obligation of the trust or of a related person, a share issued by a corporation related to the trust, or any other security issued by a person related to the trust, contact us.

A communal organization that made charitable donations can choose not to claim them and can elect to designate the

donations to beneficiaries. For more information, see Information Circular 78-5, *Communal Organizations*.

**Line 1113 – Minimum tax carryover from previous years**

If the trust paid minimum tax in the 1992 to 1998 taxation years, and does not have to pay minimum tax for the 1999 taxation year, you may be able to claim a credit against the trust's 1999 taxes payable. Use the chart below to calculate the claim. Attach a copy of your calculation to the 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 1994 before any carryover from 1995.

Minimum tax carryover			
<b>Minimum tax carryover from a previous year which can be applied in 1999</b>			
Minimum tax carryover balance at the end of 1998 (line 1269 of 1998 Schedule 12, or line l of this table for 1998) .....			_____ a
Minimum tax carryover from 1991 not used before 1999 .....		= _____	b
Minimum tax carryover available (line a <b>minus</b> line b) .....		= _____	c
Tax payable before minimum tax carryover (line 1110 of 1999 Schedule 11) .....			_____ d
Federal dividend tax credit (line 1111 of 1999 Schedule 11) .....	_____ e		
Tax credit for donations and gifts (line 1112 of 1999 Schedule 11) .....	+ _____	f	
<b>Subtotal (add lines e and f) .....</b>	<b>= _____</b>	<b>→</b>	<b>- _____</b>
Line d <b>minus</b> line g .....			= _____ h
Minimum amount (line 1232 of 1999 Schedule 12) .....			- _____ i
<b>Maximum amount of minimum tax carryover which you can apply in 1999</b>			
Line h <b>minus</b> line i .....			= _____ j
<b>Minimum tax carryover from previous year, applied in 1999</b>			
Claim an amount not more than the <b>lesser</b> of lines c or j .....			- _____ k
Enter this amount on line 1113 of Schedule 11.			
<b>Minimum tax carryover available for 2000</b>			
Line c <b>minus</b> line k .....			= _____ l
Attach a copy of this calculation to the return if you claim a minimum tax carryover, and keep a copy for your records.			

**Line 1116 – Surtax on income not subject to provincial or territorial tax**

A resident trust that carries on business through a permanent establishment in a foreign country has to pay a federal surtax of 52% of its basic federal tax attributable to the income earned in the foreign country.

A non-resident trust pays this tax instead of provincial or territorial tax. However, business income that the trust earned in a province or territory through a permanent establishment in that province or territory is subject to the provincial or territorial tax instead of this 52% surtax.

For more information, see Form T2203, *Provincial and Territorial Taxes for 1999 – Multiple Jurisdictions*, and Form T691A, *Minimum Tax Supplement – Multiple Jurisdictions*.

**Line 1118 – Federal foreign tax credit**

This credit is available to a resident trust for foreign income or profit taxes the trust paid on income the trust received from sources outside Canada. When you calculate the foreign tax credit, convert all amounts to Canadian currency.

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

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

Use Form T2209, *Federal Foreign Tax Credits*, to calculate the trust's foreign tax credit. 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. Enter the amount from line 10 of Form T2209 on line 1118.

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 as an "Additional federal foreign tax credit."

The trust's federal foreign tax credit may be less than the tax paid to a foreign country. The trust can carry unclaimed foreign tax paid on **business** income back three years and forward seven years. The trust cannot carry forward or carry back excess amounts of any foreign **non-business** income tax. You may be able to claim some or all of the excess as:

- a provincial or territorial foreign tax credit on Form T2036, *Provincial Foreign Tax Credit* (this does not apply to a trust that is resident of Quebec);
- a deduction on line 40 of the return (for information, see Interpretation Bulletin IT-506, *Foreign Income Taxes as a Deduction from Income*); or

- an additional foreign tax credit against individual surtax payable.

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

For more information, see Interpretation Bulletins IT-270, *Foreign Tax Credit*, and IT-201, *Foreign Tax Credit – Trust and Beneficiaries*.

### Line 1119 – Allowable federal political contribution tax credit

Claim this credit if the trust contributed to a registered federal political party or to a candidate for election to the House of Commons. Use the chart below to calculate the credit, and enter the total allowable credit on line 1119. If the trust's total federal political contributions are \$1,150 or more, enter \$500 on line 1119. Attach an official receipt as proof of the contribution. You do not have to attach a receipt for an amount shown in box 36 of a T5013 slip, or in a financial statement showing an amount a partnership allocated to the trust. For more information, see Information Circular 75-2, *Contributions to a Registered Political Party or to a Candidate at a Federal Election*.

Federal political contribution tax credit	
Total federal political contributions (enter this amount on line C at line 1119 of Schedule 11) .....	_____
<b>Allowable credit:</b>	
75% of first \$100 of total federal political contributions .....	_____ <b>a</b>
50% of next \$450 of total federal political contributions .....	+ _____ <b>b</b>
33 1/3% of total federal political contributions that are more than \$550 .....	+ _____ <b>c</b>
Total credit ( <b>add</b> lines a, b, and c) .....	= _____ <b>d</b>
Allowable credit – enter the lesser of line d and \$500 on line 1119 of Schedule 11.	

### Line 1120 – Investment tax credit

A trust can claim an investment tax credit (ITC) on eligible investments and qualified expenditures that are listed on Form T2038(IND), *Investment Tax Credit (Individuals)*. For example, a trust can claim an ITC on certain buildings, machinery, or equipment to be used in certain areas of Canada in qualified activities such as farming, fishing, logging, or manufacturing.

There is a time limit to complete and submit Form T2038(IND). To be able to claim an ITC, you have to send us the completed form no later than 12 months after the due date of the return for the year the expenditure occurred.

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

- earned an 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 of the return).

Reduce the cost of eligible investments and qualified expenditures by the portion of the credit deducted or refunded. Reduce these costs 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 1999 by any ITC which the trust earned in 1998, and which was claimed or refunded on the 1998 return or applied to a previous year.

Only a testamentary trust or a communal organization can designate an ITC to its beneficiaries. When you calculate the trust's ITC for the taxation year, do not include the part which is designated on line 941 of Schedule 9, 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.

For more information, see one of the following guides: *Farming Income*; *Farming Income and NISA*; or *Fishing Income*. All of these guides contain Form T2038(IND). You can also find more information in the *Business and Professional Income* guide.

### Line 1121 – Other credits

Credits you can claim at this line include:

- a federal logging tax credit; and
- a federal environmental trust tax credit.

### Lines 1124 to 1128 – Individual surtax ▲

Under proposed changes, the individual surtax rate for 1999 is 1.5%, 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 **lesser** of the amounts (a), (b), and (c) on Form T184, *1999 Capital Gains Refund for a Mutual Fund Trust*.

The trust has to pay an additional 5% surtax on the amount that is more than \$12,500.

Under proposed changes, if the basic federal tax on line 1115 of Schedule 11 is less than \$12,500, you may be able to reduce the individual surtax payable by the trust. Use the chart below to calculate the reduction.

#### Individual surtax reduction

Basic reduction	\$250.00	<b>a</b>	
Basic federal tax from line 1115		<b>b</b>	
<b>Minus</b> base amount	– \$8,333.00		
Subtotal		<b>c</b>	
	× 6% =		<b>d</b>
Surtax reduction (a minus c)			<b>e</b>
		× 50%	
		=	<b>e</b>

Enter line e on the individual surtax reduction line used to calculate line 1124.

If the trust can claim a federal foreign tax credit or an investment tax credit, it may be able to reduce its individual surtax by any unused portion of these credits. The following two sections explain these additional credits.

### Line 1125 – Additional federal foreign tax credit

Use line 1125 to deduct the additional federal foreign tax credit. Complete Form T2209, *Federal Foreign Tax Credits*, using the following instructions:

- If the amount on line (i) in Part 2 of Schedule 12 is more than the amount on line 7 in Part 1 of Form T2209, then no 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, enter the amount from line 22 of Form T2209 on line 1125 of Schedule 11 or, if the trust is subject to minimum tax, on line 1251 of Schedule 12.

### Line 1127 – Additional investment tax credit

Use line 1127 to deduct the additional investment tax credit. Calculate the amount in Section II of Form T2038(IND), *Investment Tax Credit (Individuals)*.

You can reduce the individual surtax by the **lesser** of:

- the unused investment tax credit you determine on line E of Form T2038(IND); and
- line 1126 of Schedule 11 minus line 1125, or line 1252 of Schedule 12 minus line 1251, whichever applies.

### Line 1130 – Refundable Quebec abatement ▲

A trust is entitled to an 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 provided instead of direct cost-sharing by the federal government under federal-provincial fiscal arrangements.

Use Form T2203, *Provincial and Territorial Taxes for 1999 – 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 – Minimum Tax

Schedule 12 is not included in this guide. However, you can get it from a tax services office or the Internet. Read the following information to see if the trust is liable to minimum tax, and if you need to complete Schedule 12.

The following trusts are not subject to minimum tax:

- a mutual fund trust;
- a related segregated fund trust;
- a spousal trust if it reports in the year, its first deemed realization under the 21-year rule; and
- a master trust.

Minimum tax limits the tax advantage a trust can receive in a year from certain incentives. The most common situations that may make a trust liable to minimum tax are if it:

- reports taxable dividends;
- reports taxable capital gains;
- makes an election on pension benefits under ITAR 40;



- claims a loss resulting from, or is increased by, resource expenditures, or claims resource and depletion allowances on resource properties; or
- claims a loss resulting from, or is increased by, capital cost allowance on rental or leasing property, or certified films or videotapes.

The trust has to pay minimum tax if it is more than the federal tax calculated in the usual manner.

## Schedules 13 and 14 – Provincial and Territorial Income Tax ▲

### 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 of a province other than Quebec, or of 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.

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

Use Schedule 14 to calculate provincial income tax for Manitoba, Saskatchewan, Alberta, British Columbia, and territorial income tax for the Northwest Territories and the Yukon.

The Province of Quebec collects its own provincial income tax. Therefore, do not 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 that province's or territory's income tax on the trust's federal tax return.

A resident trust may carry on a business with a permanent establishment:

- in a province or territory other than the province or territory of residence; or
- in a foreign country.

In these cases, you have to calculate the trust's income from each source to determine the liability for:

- provincial or territorial income tax; or
- federal surtax for income not subject to provincial or territorial tax.

Report 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 list to the return. In general, you should allocate all other income to the province or territory of residence.

A trust resident in a province other than Quebec, or in 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. For more information, see

Line 1118 on page 38. 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. For more information, see Line 1116 on page 38.

### Lines 1314, 1324, 1361, 1414, 1452, 1467, 1472, and 1482 – Allowable political contribution tax credit

A trust can deduct from the taxes otherwise payable to Prince Edward Island, Nova Scotia, Manitoba, Alberta, British Columbia, Nunavut, Northwest Territories, and the Yukon, a portion of amounts paid to:

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

Attach an official receipt to the return as proof of payment.

Calculate the allowable credit for **Prince Edward Island, Nova Scotia, Manitoba, British Columbia,** and the **Yukon** as follows:

Total political contributions in the year	_____*
<b>Allowable credit:</b>	
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)	<u>=====*</u>

\* Enter this amount on the appropriate line of the provincial or territorial schedule.

Calculate the allowable credit for **Alberta** as follows:

Total political contributions in the year	_____*
<b>Allowable credit:</b>	
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)	<u>=====*</u>

\* Enter this amount on the appropriate line of the provincial schedule.

Calculate the allowable credit for **Nunavut** and the **Northwest Territories** as follows:

Total political contributions in the year	_____	*
<b>Allowable credit:</b>		
100% of first \$100 of total contributions	_____	
50% of total contributions over \$100	+ _____	
Total allowable credit (maximum \$500)	= _____	*

\* Enter this amount on the appropriate line of the territorial schedule.

### Lines 1375 and 1475 – Nunavut and Northwest Territories risk capital investment tax credits

You can claim the following Nunavut and Northwest Territories (NWT) tax credits:

- Labour sponsored venture capital (LSVC) tax credit;
- Community endorsed venture capital corporation (CEVCC) tax credit; and
- Territorial business corporation direct investment (TBCDI) tax credit.

If you do not need to use the whole amount of the credit to reduce the Nunavut or NWT tax payable to zero, you can carry any unused Nunavut or NWT risk capital investment tax credits back for three years or forward for seven years. However, you cannot carry back these credits to a year before 1998. If you want to carry a credit back or forward, attach a letter to the return, telling us:

- the amount of the carryback or carryforward;
- the year(s) of the original investment; and
- the year(s) to which the credit is to be applied.

Complete the chart below to calculate this year's credit.

LSVC cost of shares (maximum \$200,000)	_____	1
CEVCC cost of shares (maximum \$200,000)	+ _____	2
TBCDI cost of shares (maximum \$200,000)	+ _____	3
<b>Add</b> lines 1 to 3	= _____	4
	× _____	15%
Line 4 <b>multiplied</b> by 15%	= _____	5
Enter carryforward from previous years	+ _____	6
Line 5 <b>plus</b> line 6	= _____	7
Total credit – enter the <b>lesser</b> of line 7 or \$30,000 on line 1375 or line 1475		

Specify the type of tax credit in the space provided at line 1375 for the Nunavut credit, or line 1475 for the NWT credit. Attach Form T2C(NWT), *Risk Capital Investment Tax Credit*, as proof of payment of the investment.

### Line 1403 – Net income tax (Manitoba)

If you deduct any foreign income on line 54 that is exempt from tax because of a tax treaty or convention, subtract 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. For more information, see Form T184, *1999 Capital Gains Refund for a Mutual Fund Trust*.

### Line 1410 – Manitoba mutual fund trust net income tax credit

For 1988 and later, mutual fund trusts and segregated fund trusts can deduct an amount on this line from tax equal to the **lesser** of:

- the net Manitoba tax from line 1403 plus Manitoba surtax from line 1406 minus the Manitoba capital gains refund from line 54 of Form T184, *1999 Capital Gains Refund for a Mutual Fund Trust* (if applicable);
- 4% of the grossed-up amount of dividends retained by the trust on line 49 of the return; and
- any unused federal dividend tax credit on line 1111 of Schedule 11.

### 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 only claim 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 on line 54 that is exempt from tax because of a tax treaty or convention, subtract the same amount from line 50, "Net income," before you calculate the flat tax on line 1421.

### Lines 1429 to 1432 – Saskatchewan tax credits and tax rebate

If the trust has a Saskatchewan labour-sponsored venture capital tax credit, claim it on line 1430. Attach Form T2C(Sask) to the return.

If the trust paid royalties or similar payments to the federal or a provincial government for oil wells, gas wells, or mineral resources during the taxation year, it may qualify for the Saskatchewan royalty tax rebate. Complete and attach Form T82, *Saskatchewan Royalty Tax Rebate (Individuals)*. On line 1431, enter the rebate calculated on this form.

### Line 1444 – Alberta royalty tax rebate

If the trust paid royalties or similar payments to the federal or a provincial government for oil or gas wells, bituminous sands, oil sands, or coal deposits during the taxation year, it

may qualify for the Alberta royalty tax rebate. Complete and attach Form T79, *Alberta Royalty Tax Rebate (Individuals)*. On line 1444, enter the rebate calculated on this form.

### Line 1462 – British Columbia royalty and deemed income rebate

To claim this rebate, complete and attach Form T81(IND), *British Columbia Royalty and Deemed Income Rebate (Individuals)*. On line 1462, enter the rebate calculated on Form T81.

## Chapter 4 – T3 Slip and Summary

As trustee, you have to complete a T3 slip, *Statement of Trust Income Allocations and Designations*, for each resident beneficiary, including a preferred beneficiary, to whom the trust allocated income in the year. If you allocated income to a non-resident beneficiary, see “Column 2 – Non-resident,” on page 32.

This chapter provides information on how to complete the T3 slip. This slip is available in the following two formats:

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

You can find a sample of the slip on page 48.

#### Note

You do not have to complete a T3 slip for a beneficiary if the only amount allocated in the year to that beneficiary is income less than \$100. However, you have to notify the beneficiary of the allocated amount since it still has to be reported on the beneficiary’s return.

You have to complete a T3 Summary, *Summary of Trust Income Allocations and Designations*, even if you prepare only one T3 slip. This is the form you use to record the total of the amounts you reported on all related slips. File only one summary for the trust, unless it is a mutual fund trust.

See the back of the summary for information on how to complete it. You can find a sample of the form on page 49.

#### Note

For 1999 and subsequent years, you may have to file T3 slips on magnetic media if you send us more than 500 slips. For more information, see “Filing on magnetic media” on page 11.

### Recipient identification number ▲

The recipient identification number is one of the following:

- the social insurance number (SIN), if the beneficiary is an individual (other than a trust);
- the business number (BN), if the beneficiary is a corporation or partnership; or
- the trust account number, if the beneficiary is a trust.

This section explains the special rules and penalties that apply to the use of the SIN and the BN.

**Trustee** – Anyone who prepares an information slip has to make a reasonable effort to get the SIN or BN from the partnership or person who will receive the slip. Unless you make a reasonable effort to get this information, you will be liable to a \$100 penalty each time you do not provide the SIN or BN on the information slip. This penalty does not apply if the partnership or person has applied for, but not yet received, a SIN or BN when the return was filed.

**Beneficiary** – Persons or partnerships (other than trusts) have to give their SIN or BN on request to anyone who has to prepare an information slip for them.

If the person or partnership does not have a SIN or BN, the following rules apply:

- the partnership or person must apply for the number within 15 days of your request (the SIN from any Human Resources Centre of Canada, the BN from us); and
- once the partnership or person has received the number, they have 15 days to give it to you.

Partnerships or persons who, for any reason, do not comply with these requirements are liable to a penalty of \$100 for each failure to give their SIN or BN.

A beneficiary may indicate that a SIN or BN has been applied for, but has not yet been received, or the beneficiary may refuse to give you the number. In these cases, do not delay completing the information slip beyond the filing deadline. If you have not received the SIN or BN by the time you prepare the T3 slip, enter “nil” in box 12.

If you have to prepare an information slip, you, your employees, officers, or agents cannot knowingly use, communicate, or allow a SIN or BN to be communicated, other than as required or authorized by law, without the written consent of the person or partnership. Any person who does so is guilty of an offence, and liable on summary conviction to a fine, imprisonment, or both.

For more information, see Information Circular 82-2, *Social Insurance Number Legislation That Relates to the Preparation of Information Slips*.

### How to complete the T3 slip

Type or print the information on the slip. Report all amounts in Canadian dollars.

If there is a preferred beneficiary election and other income is also allocated to the same beneficiary, complete one T3 slip for the elected income and a separate slip for all other allocated income.

**Trust year ending** – Use a four-digit number to indicate the year, and a two-digit number to indicate the month of the trust’s taxation year end.

**Box 12** – Recipient identification number ▲  
You have to enter the beneficiary’s social insurance number, business number, or trust account number. If you do not have the number, see “Recipient identification number” on this page. Do not leave this box blank.

**Box 14** – Account number ▲  
You have to enter the trust’s account number, if we have assigned one. Otherwise, enter “nil.” Do not leave this box blank.

**Box 16** – Report code ▲  
Enter one of the following codes:

Code    Type of slip

- 0    original
- 1    amended or cancelled

If you use code 1, see “How to amend, cancel, or issue a duplicate T3 slip,” on page 46.

**Box 18** – Beneficiary code ▲  
You have to enter one of the following codes to identify the type of beneficiary (do not leave this box blank):

Code    Type of beneficiary

- 1    an individual
- 2    a joint beneficiary
- 3    a corporation
- 4    an association, a trust (fiduciary, trustee, nominee, or estate), a club, or a partnership
- 5    a government, a government enterprise, an international organization, a charity, a non-profit organization or other tax-exempt entity, or a deferred income plan that is exempt from tax

#### Footnotes

In some cases, you may have to enter information in the footnote area below boxes 41 and 45 on the T3 slip. If you need more room to include an explanation in this area, prepare a separate statement and attach a copy to each copy of the slip.

#### Boxes 21 to 45

You can get the information needed to complete these boxes from Schedule 9, *Income Allocations and Designations to Beneficiaries*.

**Box 21** – Capital gains  
Enter the beneficiary’s share of the amount on line 921 of Schedule 9, multiplied by 4/3.

#### Note

If box 21 includes capital gains from foreign property, enter an asterisk (\*) beside the amount in box 21. In the footnote area, enter for each country, “non-business income for foreign tax credit” and the taxable portion of the amount included in box 21 that relates to the disposition of foreign property.

For more information, see Line 921 on page 32.

**Box 22** – Lump-sum pension benefits ▲  
Enter the beneficiary spouse’s share of the amount on line 922 of Schedule 9.

**Box 23** – Actual amount of dividends ▲  
Enter the beneficiary’s share of the amount on line 923 of Schedule 9.

If the beneficiary is an individual or a trust (other than a registered charity), see boxes 32 and 39 for further instructions.

**Box 24** – Foreign business income  
Enter the beneficiary’s share of the amount on line 924 of Schedule 9 (before withholding taxes).

#### Note

Enter an asterisk (\*) beside the amount in box 24. In the footnote area, identify each foreign country and the amount of business income from each country.

**Box 25** – Foreign non-business income  
Enter the beneficiary’s share of the amount on line 925 of Schedule 9 (before withholding taxes).

#### Note

Enter an asterisk (\*) beside the amount in box 25. In the footnote area, identify each foreign country and the amount of non-business income from each country.

**Box 26** – Other income ▲  
Enter the beneficiary’s share of the amount on line 926 of Schedule 9.

Include amounts such as the following in this box:

- death benefits;
- retiring allowances;
- pension income other than lump-sum pension benefits already included in box 22;
- net rental income;
- net business, farming, and fishing income; and
- interest income.

#### Notes

Enter an asterisk (\*) beside the amount in box 26 if it includes any farming income from the disposition of eligible capital property which is qualified farm property. In the footnote area, enter “eligible capital property – qualified farm property,” and the amount of the beneficiary’s share from line 926-1 of Schedule 9.

Enter an asterisk (\*) beside the amount in box 26 if it includes business, farming, or fishing income from a communal organization. In the footnote area, enter “self-employment earnings for CPP purposes,” and indicate the type of income—“business,” “farming,” or “fishing”—and the amount of the beneficiary’s share from line 926-3 of Schedule 9.

**Box 30** – Capital gains eligible for deduction  
Only personal trusts complete box 30.

Enter the beneficiary’s share of the amount on line 930 of Schedule 9, multiplied by 4/3. Do not include farming income from the disposition of eligible capital property identified in the footnote to box 26.

**Note**

Enter an asterisk (\*) beside the amount in box 30, and in the footnote area, enter either “qualified farm property” or “qualified small business corporation shares,” whichever applies, and the amount eligible for the capital gains deduction.

For more information, see Line 930 on page 33.

**Box 31** – Qualifying pension income ▲

Enter the beneficiary spouse’s share of the amount on line 931 of Schedule 9. This amount is included in box 26.

**Box 32** – Taxable amount of dividends ▲

If the beneficiary is an individual or a trust (other than a registered charity), enter the amount of dividends from taxable Canadian corporations reported in box 23, multiplied by 1.25.

**Box 33** – Foreign business income tax paid

Enter the beneficiary’s share of the amount on line 933 of Schedule 9.

**Note**

Enter an asterisk (\*) beside the amount in box 33. In the footnote area, identify each foreign country and the amount of foreign tax paid on business income from each country.

**Box 34** – Foreign non-business income tax paid

Enter the beneficiary’s share of the amount on line 934 of Schedule 9.

**Note**

Enter an asterisk (\*) beside the amount in box 34. In the footnote area, identify each foreign country and the amount of foreign tax paid on non-business income from each country.

**Box 35** – Eligible death benefits ▲

Enter the beneficiary’s share of the amount on line 935 of Schedule 9. This amount is included in box 26.

For more information, see Line 935 on page 34.

**Box 36** – Miscellaneous ▲

Enter the beneficiary’s share of the following amounts:

- pension income that is eligible for a transfer to an annuity for certain minors, from line 936-1 of Schedule 9 (also included in box 26);
- a retiring allowance, which qualifies for a transfer to a registered pension plan or registered retirement savings plan, from line 936-2 of Schedule 9 (also included in box 26); and
- charitable donations or gifts of a communal organization, from line 936-3 of Schedule 9. For more information, see Information Circular 78-5, *Communal Organizations*.

**Note**

Enter an asterisk (\*) beside the amount in box 36. In the footnote area, enter the details of the amount in the box. If you are designating more than one type of these amounts to one beneficiary, prepare a separate T3 slip for each type.

**Box 37** – Insurance segregated fund capital losses

Enter the beneficiary’s share of the amount on line 937 of Schedule 9, multiplied by 4/3.

**Box 38** – Part XII.2 tax credit

Enter the beneficiary’s share of the amount on line 938 of Schedule 9.

For more information, see Schedule 10 on page 34.

**Box 39** – Federal dividend tax credit ▲

If the beneficiary is an individual or a trust (other than a registered charity), enter 13.33% of the amount in box 32.

**Boxes 40 and 41** – Investment tax credit

Only a testamentary trust or a communal organization can complete boxes 40 and 41.

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

**Box 40** – Investment cost or expenditures

Enter the beneficiary’s share of the amount on line 940 of Schedule 9.

**Box 41** – Tax credit

Enter the beneficiary’s share of the amount on line 941 of Schedule 9.

**Note**

Enter an asterisk (\*) beside the amount in box 41. In the footnote area, enter the applicable investment code from Form T2038(IND), *Investment Tax Credit (Individuals)*.

For further information, see Lines 940 and 941 on page 34.

**Box 45** – Other credits**Newfoundland research and development tax credit**

Enter the beneficiary’s share of the amount on line 945 of Schedule 9.

**Note**

Enter an asterisk (\*) beside the amount in box 45. In the footnote area, enter “Newfoundland R&D,” and the amount of this credit from box 45.

**Distributing the T3 slip** ▲

**Copy 1:** Send us this copy, **with** the summary and 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 7.

**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. If you have the information you need to complete the slips before that deadline, we encourage you to send them to the beneficiaries as early as possible.

**Copy 4:** Keep this copy with the trust records.

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

## How to amend, cancel, or issue a duplicate T3 slip

If you find that a T3 slip includes an error **before** you file it, prepare a new slip and destroy any incorrect copies, or correct the slip and initial your changes. In either case, enter “0” in box 16.

If you find that a T3 slip includes an error **after** you file it, send us a letter explaining the error along with the necessary slips, as explained below.

**Amended slips** – If you have to change some of the data on a slip, change only the required entries and leave the original amounts in the other boxes. Print the word “AMENDED” at the top of the revised slip, and enter “1” in box 16. Send two copies to the beneficiary.

**Cancelled slips** – If you issued a slip by mistake and you want to cancel it, send us another slip with the same data as on the original. Print the word “CANCELLED” at the top of the slip, and enter “1” in box 16. Send two copies of the slip to the beneficiary.

**Duplicate slips** – If you issue a slip to replace one that a client lost or destroyed, print the word “DUPLICATE” at the top of the slip. Send two copies to the beneficiary. **Do not send us a copy of the duplicate slip.**

### Note

If the amended or cancelled T3 slip results in a change to the **total** dollar amounts for boxes 21 to 41, you also have to send us an amended summary. For more information, see the instructions on the back of the T3 Summary.

Currently, we can only accept original T3 slips on magnetic media. If you filed the original slip on magnetic media, you have to file any amended or cancelled slips on paper.

## Appendix A – Cost of depreciable assets

The rules and exceptions in the following chart will help you determine the cost for depreciable property that a trust acquires by gift, inheritance, or bequest.

Acronyms used:

- FMV = Fair Market Value
- UCC = Undepreciated Capital Cost

Type and source of property	Cost rules and exceptions
All property (except the farm assets, below) acquired by inter vivos gift	<p><b>Cost:</b> the FMV of the property at the time of acquisition.</p> <p><b>Exception:</b> if a spousal trust acquired the property when both the settlor and the trust were resident in Canada, the cost to the trust is the UCC of the property to the settlor, unless the settlor elects otherwise.</p>
All property (except the farm assets, below) acquired by a bequest or inheritance	<p><b>Spousal trust that is resident in Canada</b></p> <p><b>Cost:</b> if the settlor, just before death, and the trust, at the time the property was vested indefeasibly in the trust, were both resident in Canada, the <b>lesser</b> of:</p> <ul style="list-style-type: none"> <li>– the capital cost; and</li> <li>– the cost amount of the property to the settlor just before death.</li> </ul> <p><b>Exception:</b> if the trust acquired the property before 1993, the cost is the UCC of the property to the settlor just before death.</p> <p><b>Other trusts</b></p> <p><b>Cost:</b> the FMV of the property just before the death of the settlor.</p> <p><b>Exception:</b> if the trust acquired the property before 1993, the cost is the average between the FMV of the property at the time of acquisition, and the UCC of the property to the settlor just before death.</p>
Part XI (Regulations) farm asset, acquired by a bequest or inheritance, which is permanently vested in a resident child of the settlor within 36 months of death	<p><b>Cost:</b> 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 <b>lesser</b> of:</p> <ul style="list-style-type: none"> <li>– the capital cost; and</li> <li>– the cost amount of the property to the settlor just before death (unless the legal representative of the deceased elects to do otherwise on the final T1 return of the deceased).</li> </ul> <p><b>Exception:</b> if the trust acquired the property before 1993, the cost is the UCC 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, <i>Intergenerational Transfers of Farm Property on Death</i>.</p>
Part XVII (Regulations) farm asset, acquired by a bequest, inheritance, or inter vivos gift	<p><b>Cost:</b> the FMV of the property when it was acquired.</p>
Depreciable farm asset of a prescribed class in Canada, acquired by an inter vivos gift or sale for the transferor's child	<p><b>Cost:</b> if the transferor's child was resident in Canada just before the transfer, the cost of each property cannot be more than the greater of, or less than the <b>lesser</b> of, the following amounts:</p> <ul style="list-style-type: none"> <li>– the FMV of the property just before the transfer; and</li> <li>– the UCC of the property just before the transfer.</li> </ul> <p>If the property was sold to the trust for an amount between the FMV and the UCC of the property, the cost will be equal to the sale price.</p> <p><b>Exception:</b> if the original capital cost of depreciable property to the transferor is <b>more</b> than the cost at which the trust acquired 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.</p> <p>For more information, see Interpretation Bulletin IT-268, <i>Inter Vivos Transfer of Farm Property to Child</i>.</p>







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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 to represent you.

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 and address, and the date you were appointed 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 have questions about the assessment of the trust's return, we may also ask you for information about 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 you use a teletypewriter, you can call our toll-free, bilingual enquiry service at ~~1-800-665-0354~~ during regular hours of service.

### Giving or cancelling an authorization

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, 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

We are committed to providing you with service that is fair, accurate, timely, courteous, and confidential.

The Enquiries staff of your tax services office will help you with any tax-related questions or problems you may have. If a problem is not resolved to your satisfaction, you can contact a Problem Resolution Program representative at your local tax services office. The representative will be in touch with you right away to let you know they are working on your concern.

Our goal under this program is to provide you with a solution within 15 working days. If we are unable to resolve your issue within that time (for example, if your case is complex), we will contact you to discuss your case and let you know when you can expect a reply.