DESIGNATION OF A PROPERTY AS A PRINCIPAL RESIDENCE BY A PERSONAL TRUST

Use this form for 2002 and later taxation years to designate a property as a trust's principal residence. Also use it to calculate the capital gain for the year if the trust:

- disposed of, or if we consider it to have disposed of, its principal residence or any part of it; or
- granted someone an option to buy the principal residence of the trust or any part of it.

If the trust disposed of, or if we consider it to have disposed of, a property for which the trust filed Form 94-115, *Election to Report a Capital Gain on Property Owned by a Personal Trust at the End of February 22, 1994*, use this form to calculate the capital gain if:

- the property was the trust's principal residence for 1994; or
- the trust is designating the property in this form as the trust's principal residence for any taxation year.

If the trust designated the property as its principal residence and filed Form 94-115 for that property, the trust may be entitled to a reduction as a result of the capital gains election. To calculate this reduction, use Form T1079-WS, *Principal Residence Worksheet*. You can get this form from our Web site at **www.ccra.gc.ca** or by calling **1-800-959-2221**.

Attach one copy of this form to the *T3 Trust Income Tax and Information Return*, for the year in which the disposition or deemed disposition of the property, or the granting of an option to acquire the property, occurred. A deemed disposition occurs when you are considered to have disposed of property, even though you did not sell it.

If the trust designated the property as its principal residence for all the years it owned the property, there is no capital gain.

Designation by a personal trust

For the purpose of this form, the **acquisition date** is the date on which the trust last acquired or reacquired the property, or December 31, 1971, whichever is later. However, if the trust filed Form 94-115, we do not consider the trust to have disposed of and immediately reacquired the property as a result of the election.

Note: If the trust designated the property as its principal residence for the purpose of the election, the trust has to include those previously designated taxation years as part of its principal residence designation.

Description of designated property: ______________________________

I, ______________________________ (print name), designate the property described above as having been the trust's principal residence for the following taxation years ending after the acquisition date:

A ______________________________
(specify the taxation years after 1971 and before 1982)

B ______________________________
(specify the taxation years after 1981)

I confirm that the trust did not designate any other property as its principal residence. I also confirm that none of the following designated any other property in the above taxation years as a principal residence: a specified beneficiary of the trust; a person who throughout those years was the spouse or common-law partner of a specified beneficiary (who was not separated and living apart from the specified beneficiary throughout the year under a judicial separation or written separation agreement); any child of a specified beneficiary who was throughout those years under 18, unmarried, and not in a common-law relationship; or the mother, father, or any of the brothers or sisters who were under 18, unmarried, and not in a common-law relationship, of a specified beneficiary who was under 18, unmarried, and not in a common-law relationship throughout the years the trust designated the property as a principal residence.

I also confirm that no partnership or corporation (other than a registered charity) held a beneficial interest in the trust at any time in the years the trust designated the property as its principal residence.

Name of trust	Address		
Date	Signature	Position or title	Account number T | | | – | | | | | – | |

Specified beneficiaries

Name, address, and social insurance number of the specified beneficiary and other persons affected by the designation (spouse or common-law partner, child, parent, brother, or sister)		Years affected by the designation
Name Address	Social insurance number	
Name Address	Social insurance number	

    Attach a separate sheet if necessary.   (Ce formulaire existe en français.)

Canada

General Information

To qualify as the principal residence for a taxation year, the trust's property must be:

a) a housing unit, a leasehold interest in a housing unit, or a share of the capital stock of a co-operative housing corporation that the trust acquired only for the right to inhabit a housing unit owned by the corporation;

b) owned by the trust at any time in the taxation year, jointly with another person or otherwise (this includes sole ownership, joint tenancy, tenancy-in-common, and co-ownership (for example, in Quebec));

c) a housing unit ordinarily inhabited by a specified beneficiary of the trust or by the current or former spouse, the current or former common-law partner, or a child of a specified beneficiary at any time in the calendar year which has ended in the taxation year of the trust; and

d) designated as the trust's only principal residence for that taxation year.

A person referred to in c) above cannot designate another housing unit or leasehold interest. An exception to this is the spouse or common-law partner of the specified beneficiary who, throughout the year, lived apart from the beneficiary, and separated from the beneficiary according to a judicial separation or written separation agreement. Another exception is a child of the specified beneficiary who was married, in a common-law relationship, or aged 18 or older.

For a specified beneficiary who, throughout the year, was under 18, unmarried, and not in a common-law relationship, no other property can be designated by his or her mother, father, or any of his or her brothers or sisters unless they were 18 or over, married, or in a common-law relationship in the year.

If the trust has made, or is making an election under subsection 45(2) or 45(3) of the *Income Tax Act*, it can designate the property to be its principal residence for up to four more years, even though the housing unit was not ordinarily inhabited during those years by one of the persons mentioned above. If the trust meets certain conditions, the four-year limitation can be extended indefinitely for taxation years in which the ordinarily inhabited rule was not met because the place of employment of either a specified beneficiary or the spouse or common-law partner of a specified beneficiary was relocated. For more information on these elections, see the *Capital Gains* guide.

If the trust distributed the property to a beneficiary on a section 107(2) rollover basis, in certain circumstances subsection 107(2.01) may allow the trust to elect to have disposed of the property at fair market value immediately before this distribution. This would allow the trust to use the principal residence exemption.

If a trust has distributed a property to a beneficiary on a subsection 107(2) rollover basis to satisfy all or any part of the beneficiary's capital interest in the trust, and if the beneficiary disposes of the property after May 9, 1985, to claim the principal residence exemption, the beneficiary is considered to have owned the property since the trust last acquired it. This deemed-ownership provision does not apply if a post-1971 spousal or common-law partner, joint spousal or common-law partner, or alter ego trust distributed the property to a person other than the relevant spouse, common-law partner, or settlor when the spouse, common-law partner, or settlor is alive or on the day that person dies, if that day was after December 20, 1991.

For more information, see Interpretation Bulletin IT-120, *Principal Residence,* and the chapter called "Principal Residence" in the *Capital Gains* guide.

Definitions

Common-law partner – A common-law partner is a person of the same or opposite sex who is **not your spouse** (as defined below) with whom you live and have a relationship and to whom at least **one** of the following situations applies. He or she:

- is the natural or adoptive parent (legal or in fact) of your child;
- has been living with, and having a relationship with, you for at least 12 continuous months; or
- lived with you previously for at least 12 continuous months as your spouse or common-law partner.

Under proposed changes, the last condition will no longer exist. The effect of this proposed change is that a person (other than the parent of your child) will be your common-law partner only after your current relationship with that person has lasted at least 12 continuous months. This proposed change will apply to 2001 and later years once it becomes law. If this change will affect the trust's return for 2001 or 2002, contact us.

Reference to "12 continuous months" in this definition includes any period that you were separated for less than 90 days because of a breakdown in the relationship.

Specified beneficiary – A specified beneficiary of a trust for the year is a beneficiary who had a beneficial interest in the trust for the calendar year which has ended in the taxation year of the trust, and who ordinarily inhabited the housing unit or had a current or former spouse, a current or former common-law partner, or a child who ordinarily inhabited the housing unit in the calendar year which has ended in the taxation year of the trust. If the housing unit was not ordinarily inhabited by a particular beneficiary of a personal trust or by that beneficiary's current or former spouse, current or former common-law partner, or child, that beneficiary can nevertheless still fall within the definition of a "specified beneficiary" of the trust for a particular taxation year of the trust. This would be the case if, in the calendar year ending in the trust's taxation year, that beneficiary had a beneficial interest in the trust and also the trust was entitled to designate the property as its principal residence for the year by reason of a subsection 45(2) or 45(3) election.

Spouse – The term spouse applies only to a person who is legally married.

Information you need to calculate the capital gain

Note: If the trust was not a resident of Canada during the entire period it owned the designated property, contact us at **1-800-959-8281**. The period of non-residence may reduce or eliminate the availability of the principal residence exemption.

Number of taxation years for which the trust designated the property as a principal residence

• Before 1982 (as designated on page 1)		1
• After 1981 (as designated on page 1)	+	2
Total number of years designated (line 1 **plus** line 2)	=	3

Number of taxation years ending after the **acquisition date** in which the trust owned the property (jointly with another person or otherwise)

• Before 1982		4
• After 1981	+	5
Total number of years owned (line 4 **plus** line 5)	=	6

Proceeds of disposition or deemed disposition		7
Outlays and expenses related to the disposition		8
Adjusted cost base on the date of disposition (if the trust filed Form 94-115 for this property, do not consider any increase to the adjusted cost base as a result of that election)		9
Adjusted cost base on December 31, 1981		10
Fair market value on December 31, 1981		11
Adjustments made after 1981 (for example, capital expenditures)		12

Calculating the capital gain

Part 1

Proceeds of disposition or deemed disposition (line 7)					13
Adjusted cost base on the date of disposition (line 9)		14			
Outlays and expenses (line 8)	+	15			
Line 14 **plus** line 15	=		▶	–	16
Capital gain before principal residence exemption (line 13 **minus** line 16)				=	17
Amount from line 17		18			
Amount from line 3 plus 1 (one additional year is granted by law)	×	19			
Multiply line 18 by line 19	=	20			
Amount from line 6	÷	21			
Divide line 20 by line 21	=		▶	–	22
Net capital gain from Part 1 (line 17 **minus** line 22; if negative, enter "0")				=	23

Part 2

Complete Part 2 **only** if the property the trust disposed of is one of two or more properties that qualify as principal residences that the trust owned on December 31, 1981, and continuously thereafter until the disposition, by members of a family unit as described in the definition of **principal residence** in section 54 of the *Income Tax Act* (members of a family unit usually include the specified beneficiary, his or her spouse or common-law partner, and any of their children). **In all other cases**, do not complete Part 2.

A. Pre-1982 gain

Note: If the trust designated the property as a principal residence for all the years it owned it before 1982, enter "0" on line 32.

Fair market value on December 31, 1981 (line 11)					24
Adjusted cost base on December 31, 1981 (line 10)				–	25
Pre-1982 gain before principal residence exemption (line 24 **minus** line 25)				=	26
Amount from line 26		27			
Amount from line 1 plus 1 (one additional year is granted by law)	×	28			
Multiply line 27 by line 28	=	29			
Amount from line 4	÷	30			
Divide line 29 by line 30	=		▶	–	31
Pre-1982 gain (line 26 **minus** line 31; if negative, enter "0")				=	32

B. Post-1981 gain

Note: If the trust designated the property as a principal residence for all the years the trust owned it after 1981, enter "0" on line 44 and complete area D below. If the fair market value of the property on December 31, 1981, is more than the amount on line 7, enter "0" on line 44 and complete areas C and D below.

Proceeds of disposition or deemed disposition (line 7)				33
Fair market value on December 31, 1981 (line 11)		34		
Adjustments made after 1981 (line 12)	+	35		
Outlays and expenses (line 8)	+	36		
Add lines 34 to 36	=	▶	–	37
Post-1981 gain before principal residence exemption (line 33 **minus** line 37)			=	38
Amount from line 38		39		
Amount from line 2	×	40		
Multiply line 39 by line 40	=	41		
Amount from line 5	÷	42		
Divide line 41 by line 42	=	▶	–	43
Post-1981 gain (line 38 **minus** line 43; if negative, enter "0")			=	44

C. Post-1981 loss

Fair market value on December 31, 1981 (line 11)		45
Proceeds of disposition or deemed disposition (line 7)	–	46
Post-1981 loss (line 45 **minus** line 46; if negative, enter "0")	=	47

D. Net capital gain from Part 2

Pre-1982 gain, if any (line 32)		48	
Post-1981 gain, if any (line 44)	+	49	
Line 48 **plus** line 49	=	50	
Post-1981 loss, if any (line 47)	–	51	
Net capital gain from Part 2 (line 50 **minus** line 51; if negative, enter "0")	=	▶	52

Part 3

Net capital gain from Part 1 (line 23)	53
Net capital gain from Part 2 (line 52)	54
Total capital gain (if you completed Part 2, enter the amount from line 53 or line 54, **whichever is less**. Otherwise, enter the amount from line 23 in Part 1)	55

Part 4

Complete Part 4 **only** if the trust filed Form 94-115 for this property. **In all other cases**, enter the amount from line 55 above on line 58.

Total capital gain before reduction (line 55)		56
Reduction as a result of the capital gains election (line 67 of Form T1079-WS)	–	57
Capital gain (line 56 **minus** line 57; if negative, enter "0")	=	58

Enter the amount from line 58 above on line 6 of T3 Schedule 1, *Dispositions of Capital Property*, or line 6 of Form T1055, *Summary of Deemed Realizations*.