

SPECIAL UPDATE: TRUST REPORTING BY CHARITIES

*By Terrance S. Carter, Theresa L.M. Man and Jacqueline M. Demczur**

After much anticipation from the charitable sector, the Canada Revenue Agency (“CRA”) has finally clarified the reporting requirements for internal express trusts held by registered charities.

In accordance with a notice released by the CRA’s Charities Directorate on Friday, November 10, 2023, in response to a call by the charitable sector for clarity, the CRA announced that it will **not require** registered charities to file the T3, Trust Income Tax and Information Return, for internal trusts (see Appendix A below for the CRA’s notice).

The announcement goes on to explain that the CRA considers that internal trusts are created when a charity receives property as a gift that is subject to certain legally enforceable terms and conditions and holds that property as the trustee of the trust.

The announcement reminds registered charities that they are required to file the T3010, Registered Charity Information Return, which must include the aggregate information about a charity’s property, including internal trusts.

Although not specifically stated in the notice from the CRA, what is implicit from the notice is that there is no tax or public policy reason to require registered charities to file separate T3 returns when that information is already readily available to the public in the T3010s that all registered charities have to file.

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This is what was pointed out in [Charity & NFP Law Bulletin No. 522](#), dated June 29, 2023, when the authors called upon either the CRA or the Department of Finance (“Finance”) to provide clarity on this issue for the charitable sector, as well as in our subsequent *Charity & NFP Law Updates* in [August](#), [September](#) and [October 2023](#).

Although clarity for the charitable sector has taken longer to come than one would have hoped, the CRA is to be commended for providing a very balanced and practical response to a problem that Finance had created when the Government passed Bill C-32 in December 2022. The dysfunction that has been apparent between Finance and the CRA over this issue emphasizes the need to establish a Home in Government for the charitable and NFP sector. This is a matter that [Imagine Canada](#) and other sector groups have been calling for in recent years in order to effect better communication between Finance and the CRA to help avoid problems, such as the trust reporting issue for internal express trusts of charities that the sector has recently experienced.

APPENDIX A



Canada Revenue Agency
Charities Directorate

Charities and giving - What's new

New trust reporting requirement for tax years ending on or after December 31, 2023

On December 15, 2022, Bill C-32, the Fall Economic Statement Implementation Act, 2022, received Royal Assent. This bill amended the Income Tax Act to expand the filing requirements for trusts.

The Canada Revenue Agency (CRA) understands that registered charities are seeking clarification on how these new requirements apply to internal trusts.

The CRA will **not** require registered charities to file the T3, Trust Income Tax and Information Return, for internal trusts.

Internal trusts are those created when a charity:

- receives property as a gift that is subject to certain legally enforceable terms and conditions; and,
- holds that property as the trustee of the trust.

Registered charities report on their finances and activities annually by filing the [T3010, Registered Charity Information Return](#). These returns include aggregate information about all the property a charity holds, including internal trusts. Registered charities should ensure these annual returns are complete and accurate, as they serve important public information and compliance purposes.

We're here to help

If you have any questions on the new requirements, please call our Charities Directorate client service team at 1-800-267-2384. Our representatives are available to help you Monday through Friday, from 9 am to 5 pm, local time.



Canada Revenue Agency
Agence du revenu
du Canada

Canada

Charities Directorate
Canada Revenue Agency
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For telephone, fax, and TTY (teletypewriter) numbers, go to [Contact the Charities Directorate](#).

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