VIDEO TAX NEWS

Monthly Tax Update Newsletter

September 2025 — ISSUE 529

WHAT'S INSIDE

1 Government Releases

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FINANCE RELEASES

1. **August 15, 2025** – The Department of Finance released a series of proposals that included **draft legislation** to implement several measures from the **2024 Fall Economic Statement**, Budget 2024 and other sources. **Explanatory notes** were also released. Many items reflected limited or no changes from prior announcements or draft legislation. Consultation closes on September 12, 2025.

   The following proposals were included:

   - expansion of transactions eligible for the **capital gains rollover** for **eligible small business corporation shares** to apply to dispositions that occur on or after **January 1, 2025** (first announced in the 2024 Fall Economic Statement; see VTN 521(7955));
   - **increased reporting** requirements for **non-profit organizations** to apply to **fiscal periods commencing** on or after **January 1, 2026** (first announced in the 2024 Fall Economic Statement; see VTN 521(7955));
   - modifications to the **scientific research and experimental development** rules effective on or after **December 16, 2024** (first announced in the 2024 Fall Economic Statement; see VTN 521(7955));

reviewing the retroactive proposals with clients who may be affected

- amendments based on the 2023 amendments to the **OECD Common Reporting Standard** principally resulting from the adoption of the new **Crypto-Asset Reporting Framework** effective for **2026** and subsequent calendar years (first announced in Budget 2024; see VTN 513(7643));
- amendments to the temporary **$10 million exemption** for qualifying dispositions to **employee ownership trusts**, retroactive to as early as **January 1, 2024**, including the following (see VTN 513(7632) for details of the existing law):
  - **extending** this exemption to dispositions to **worker cooperative corporations** (first announced in Budget 2024);
  - clarifying that the requirement of **active engagement** will be determined using the **20 hour per week** standard applicable to TOSI; and
  - **limiting** the **deemed capital gain** to the purchaser to arise only on **disqualifying events** occurring **no more than ten years** after the disposition giving rise to the exemption (see VTN 516(7788));

whether these changes will encourage sales eligible for this exemption

- amendments to **expand CRA's ability** to **gather information**, including a **new penalty** for non-compliance, effective on **Royal Assent** (first announced in Budget 2024; see VTN 529(8371));
- introduction of two new **exemptions** to the **EIFEL rules** for certain interest incurred in respect of **purpose-built residential rentals** (first announced in Budget 2024; see VTN 517(7815)) and **Canadian regulated energy utility businesses** (first announced on August 12, 2024), retroactive to the commencement of the EIFEL rules on **October 1, 2023**; and
- implementation of the remaining portion of the **substantive Canadian-controlled private corporations** measures relating to the passive income of **foreign affiliates** retroactive to the commencement of these rules for taxation years that began on or after **April 7, 2022** (first announced in Budget 2022), altering some of the rules for **foreign accrual property income** (FAPI; see VTN 493(6733) and 489(6553)).

2. **August 15, 2025** – The Department of Finance released a series of proposals that included **draft legislation** to implement several **technical tax amendments** to existing legislation. **Explanatory notes** were also released. Consultation closes on September 12, 2025.

   The following proposals were included:

- modifying the **trust reporting requirements** flowing from the issues related to **bare trusts** (see VTN 529(8377));
- extending the definition of a **qualifying relation** for purposes of the **multigenerational home renovation tax credit** to include the **spouses** and common-law partners of **nieces and nephews** of

modified proposals for bare trust reporting

the qualifying individual, retroactive to **2023** (see VTN 522(8068) for details on the issue being addressed);
- aligning the tax treatment of **investment income** within a **TFSA** where a **surviving spouse** was **not designated** as a **successor holder** to **mirror** the results where they **were designated**, effective **January 1, 2026** (see VTN 463(5112) for a discussion of the current rules); and
- prescribing US **401(k)** accounts to be **foreign retirement arrangements** to ensure that they receive **treatment consistent** with other US pension plans such as **individual retirement accounts** (IRAs), effective **August 15, 2025** (see VTN 476(5870) for a discussion of Canadian tax issues related to IRAs and 401(k) plans).

reviewing the proposals that may impact specific clients

3. **August 15, 2025** – The Department of Finance released a series of proposals that included **draft legislation** to amend the **Global Minimum Tax**. **Explanatory notes** were also released. Consultation closes on September 12, 2025.

4. **August 15, 2025** – The Department of Finance released a series of proposals that included **draft legislation** to amend the **Excise Tax Act** and the **Excise Act**. **Explanatory notes** were also released. The proposed amendments included the following measures:

    - **extending the deadline** for GST/HST **returns** of a **deceased taxpayer** to no sooner than **six months** after the date of death, consistent with the existing extension for filing income tax returns; and
    - limiting **input tax credits** on payments to **redeem coupons** to circumstances where the redemption related **exclusively** to **commercial activities**.

5. **August 1, 2025** – The Department of Finance announced the **prescribed interest rate** for the **fourth quarter of 2025** (October 1 – December 31, 2025). The rate remains **unchanged** at 3% for corporate refunds and the calculation of taxable benefits. The rate remains at 5% for personal refunds and **7% for arrears and instalment interest**.

prescribed rates unchanged to the end of 2025

CRA RELEASES

1. **August 21, 2025** – CRA added a webpage (**Skip the Line – Get faster help** from the CRA webpage) that discussed **alternatives** to **telephone services**. CRA noted that **call wait times** are provided on a **real-time basis** on their **contact the CRA webpage**. When **call volume** results in average **wait times exceeding 30 minutes**, calls are **redirected** to automated services and wait times will indicate **not available**. CRA also indicated that one in four calls could be resolved by other means.

this resource to determine when to call CRA

See **Appendix A** for a listing of **resources prepared** by **Video Tax News** that are available on the Video Tax News portal and for recently released/updated **CRA publications and forms**.

OTHER RELEASES

1. **July 10, 2025** – Employment and Social Development Canada issued a News Release (Federal government extends Employment Insurance temporary measure to help workers impacted by U.S. tariffs) announcing that **temporary EI measures** (initiated in response to the US tariffs) that **reduce the hours** of employment required to qualify and **increase the weeks** of entitlement would not terminate on July 12, 2025 but be **extended to October 11, 2025** (see VTN 525(8179)). The **backgrounder** discussing these and related measures was also updated.

these extended EI benefits

2 Canada's COVID-19 Response 529(2)

CEWS – INFORMAL VS. GENERAL PROCEDURE

In a July 9, 2025 **Tax Court of Canada** decision (Downtown Hockey League Ltd. vs. HMK, 2024-1276(IT)I), the taxpayer had appealed **redeterminations** of their **Canada emergency wage subsidy** (CEWS) claims for **fourteen periods**. The taxpayer had elected to proceed under the **Tax Court of Canada's informal procedure**, which **limits claims** to **$25,000** of taxes **per year** under appeal. The **disputed amounts** were **less than $25,000 per CEWS period** but significantly **exceeded $25,000 in aggregate** and were reflected in a **single notice** for all periods. The taxpayer applied to **revoke its election** to proceed under the **informal procedure**.

these monetary limits to informal procedure cases

Taxpayer loses
A **limiting election** separate from the election to proceed under the informal procedure is **required** where the **disputed amounts exceed** the **$25,000** limit, as any excess amounts cannot be recovered regardless of the case results. The Court first noted that where **no limiting election** is filed, the Court **shall order** the **general procedure** if the **monetary limit is exceeded** (Tax Court of Canada Act Section 18.12). As a result, if the **monetary limit** applies **per taxation year**, the taxpayer's case would be moved to the general procedure. If it applied **per qualifying period**, then no limiting election was required.

The Court ruled that **CEWS determinations are made** and notifications issued **for a qualifying period**, and the CEWS **dispute process follows** that timing (Subsections 152(1.2) and (3.4)). Therefore, the **monetary limit applies per period**. The Court also noted that, although this was a CEWS

each period is separately determined and follows a separate dispute resolution process

case, the **conclusion extended** to the **Canada emergency rent subsidy** (CERS) and the **Canada recovery hiring program** (CRHP). It was **irrelevant** that **CRA** combined all periods into a **single notice**.

Although the taxpayer wished to have the case heard under the general procedure for other reasons, their **election** to use the **informal procedure** was **binding**, subject only to being ordered under the general procedure if the monetary limits were exceeded without a limiting election. As the limits were not exceeded, the taxpayer was **required to continue** under the **informal procedure**.

CERS – COLLECTION RESTRICTIONS

A July 25, 2024 **Technical Interpretation** (2024-1013061E5, Julia Clarkson) responded to a taxpayer's enquiry on whether **collection** of an **assessment** for a recovery of an **overpaid** benefit under the **Canada emergency rent subsidy** (CERS) was subject to the **usual delay** in CRA's ability to undertake **collections activity** (Subsections 225.1(1) and (2)).

the usual collection rules apply to CERS redeterminations

CRA confirmed that these provisions, which **generally prevent collections action** for **90 days after assessment**, and **while** the amount is under **objection or appeal**, apply to an assessment to recover an excess refund (Subsection 160.1(3); including CERS payments). CRA further noted that **half** of amounts payable by a **large corporation** can be subjected to **collections action** despite these restrictions (Subsection 225.1(7)) and that CRA could apply for a **jeopardy order** (Subsection 225.2(2)) if they believed a delay in collection would jeopardize their ability to collect the funds (see VTN 490(6574)).

CRA noted that an assessment to recover an excess refund (Subsection 160.1(3)) can be made at any time; however, CRA had previously noted that the redetermination of a Canada emergency wage subsidy (CEWS) benefit is subject to the same time limits as a reassessment of income taxes (see VTN 504(7221)). The same principles would apply to a CERS benefit. Unless CRA can redetermine the amount of a benefit, they cannot determine that an excess refund was issued, so there would be no excess refund to recover.

Editors' comment
While the other COVID-19 subsidies were not discussed, the same principles would apply to collections activity on those subsidies.

CEBA – COLLECTIONS PROCESS

warning clients with outstanding CEBA loans of this issue

On July 28, 2025, the **Canada Emergency Business Account** (CEBA) website was updated to indicate that **income tax refunds** and **federal benefits** can be **applied to CEBA loan balances** outstanding without the taxpayer's approval or direction.

COVID-19 BENEFIT ELIGIBILITY ROUND-UP

As CRA continues their **post-payment reviews** related to the **Canada Emergency Response Benefit** (CERB), **Canada Recovery Benefit** (CRB), **Canada Recovery Caregiving Benefit** (CRCB) and related programs, the Federal Court also continues to consider applications for judicial review of the reasonableness of CRA's decisions to deny benefits.

the services CRA considers indicative of self-employment rather than rental income

Short-term rentals
A July 21, 2025 **Federal Court** case (Tcherkas vs. AGC, T-1784-24) reviewed CRA's denial of **CERB**, **CRB** and **Canada Worker Lockdown Benefit** on the basis that the taxpayer did **not meet** the **$5,000 prior period earnings test**. The taxpayer claimed to have met the $5,000 test based on his **short-term rental activities** conducted through Airbnb being a form of **self-employment** and **not rental income**. CRA guidelines indicated that such income would be classified as **self-employment** only when **additional services** (e.g. meals, security, cleaning during the stay, delivery services, transportation, tours or excursions) were of **such magnitude** that the **payments** could be considered as being **largely put towards those services**, rather than pure rental. **Basic services** (e.g. utilities, parking, internet, laundry and maintenance of the property, appliances or furnishings such as towels, utensils and bedding) **would not** indicate **self-employment**. The Court held that **CRA's conclusion** was **reasonable**, so the application for judicial review was dismissed.

the challenges of programs administered by different government groups

Duplicated payments
A July 10, 2025 **Federal Court** case (Souza vs. AGC; T-2287-24) reviewed CRA's requirement of a **reimbursement** of **$2,000** received as an **advance payment** for CERB. The taxpayer had initially **applied for EI benefits** and received a **cheque for $2,000** as an **advance payment** from Service Canada in respect of the period from March 15, 2020 to April 11, 2020. The taxpayer **did not deposit** the cheque and eventually **returned** it to **Service Canada**. The taxpayer also received a **$2,000 advance payment** for the **same period** by direct deposit. The Court **granted judicial review**, stating that it was **not reasonable** for CRA to **ignore the repayment** to Service Canada (presumably referring to the return of the uncashed cheque) despite the fact that he was entitled to the EI payment and not to CERB.

3 Personal Tax 529(3)

MEDICAL EXPENSES – ROUND-UP

Medical expenses eligible for a **tax credit** are limited to those specified by law (Subsection 118.2(2)), many of which are detailed in Folio S1-F1-C1, Medical Expense Tax Credit. Eligibility of medical expenses related to the following was recently considered by CRA:

adjusting previous returns if such expenses were not claimed

- The cost of an **automated cycler machine** used for peritoneal dialysis as an **artificial kidney machine** is an **eligible** medical expense (Paragraph 118.2(2)(i)), correcting a previous CRA statement made in error (see VTN 514(7671); May 6, 2025, Technical Interpretation 2025-1062111E5, Randa El-Kadi).
- The cost to acquire a **portable oxygen concentrator** is an **eligible** medical expense for a patient (Paragraph 118.2(2)(i)). In addition, the cost to acquire a **hyperbaric oxygen chamber** would be **eligible** provided that the equipment is necessary to administer oxygen, it is acquired for use by the patient and it is prescribed by a medical practitioner authorized to practice as such (Paragraph 118.2(2)(k); March 25, 2025 Technical Interpretation 2025-1049301E5, Éloïse Lafortune Viger).

4 Employment Income 529(4)

DEDUCTIBILITY OF CLOTHING PURCHASES

the strict requirements for deductions from employment income

A July 30, 2025 **Tax Court of Canada** case (Samotus vs. HMK, 2021-470(IT)I) considered the **deductibility** of **luxury clothing expenses** claimed by a **commissioned employee** for the 2016 to 2018 taxation years. The taxpayer worked as a sales associate for Holt Renfrew and argued that she was **required**, either expressly or implicitly, to **incur clothing expenses** to fulfill her employment duties. The taxpayer also argued that the clothes were only used in the work environment and were depleted quickly due to wear and tear, as well as changes in fashion. To deduct expenses related to commission income (Paragraph 8(1)(f); see VTN 497(6868)) or the cost of supplies consumed in employment duties (Subparagraph 8(1)(i)(iii)), employees must have received a **T2200** and be **required by contract** to pay for their own expenses.

Taxpayer loses

The Court found that there was **no** explicit or implicit **contractual obligation** for the taxpayer to incur such expenses. The **employer consistently denied requiring** employees to buy any clothing in excess of what was covered by

the employer-provided clothing allowance, but rather, only required that clothes worn be clean, fresh and coordinated. **No T2200 form** was issued as employees were not expected to bear personal costs for work-related clothing. The Court emphasized that, while the taxpayer believed that incurring those expenses helped the taxpayer generate more commission, a strategic and **economic choice** is **not equivalent** to a **legal obligation** under her employment terms. No deduction for clothing was permitted.

whether the employment contract required the expenditure

The Court also acknowledged that **work clothes** are **deductible** in **unique circumstances** and noted that it may have been possible that the clothes were **used up in a season or two** due to wear, tear and changes in fashion. However, that angle was not relevant as the taxpayer lost on the aforementioned grounds in addition to not providing sufficient support that the expenditures were incurred.

EMPLOYEE VS. INDEPENDENT CONTRACTOR (IC)

A July 28, 2025 **Tax Court of Canada** case (James Burns Support Society vs. MNR, 2024-1784(EI) and 2024-1785(CPP)) considered whether a **caregiver's** night shift work from July 1, 2020 to May 31, 2023 constituted insurable and pensionable employment.

whether there was clear agreement about the status between worker and payer

Taxpayer loses – employee
The Court held that the worker **was an employee** and not an IC during the relevant period and therefore was **earning insurable and pensionable income**. While the payer attempted to reclassify the worker as an IC starting in 2017, the Court found that there was no mutual intent.

the level of control over the worker

The Court then examined the objective factors, noting that the **payer exercised significant control**, dictated **hours** and **remuneration**, **approved shift substitutions** and **bore the financial** and **management responsibilities**. The worker, in contrast, bore **no financial risk**, had **no chance of profit** and provided **no tools or capital**. Arguments that he had full autonomy or had subcontracted the work to his wife were dismissed. His wife had simply taken over his night shifts and was paid directly by the payer rather than being subcontracted.

INCORRECT SLIPS

A June 30, 2025 **Federal Court** case (Makoundi vs. AGC, T-721-25) considered whether the Federal Court had jurisdiction to review a former employer's **refusal to issue a corrected T4 slip** for 2015, where the underlying dispute concerned the tax treatment of a harassment settlement payment.

filing an objection if a corrected slip will not be issued

The taxpayer received a payment in 2015 as part of a harassment settlement, which was **reported** on a T4 as a **taxable retirement allowance**. Believing that the amount should have been classified as **non-**

taxable damages, the taxpayer **attempted** for years to obtain a **corrected T4** slip. After exhausting internal grievance procedures and receiving no amendment, he turned to the Federal Court, **seeking an order compelling** the employer to **issue a new slip**. However, the Court ruled that the **true nature** of the **dispute** was a **tax matter** falling under the **exclusive jurisdiction** of the **Tax Court** of Canada. The Court reiterated that challenges to the taxability of settlement payments must be **pursued through objection and appeal procedures**, not judicial review. It was also made clear that, even if a corrected T4 were issued, CRA would not be bound by it.

See VTN 509(7447) for CRA's commentary on what to do when an incorrect slip is received.

5 Business/Property Income 529(5)

DAMAGES AND SETTLEMENT PAYMENTS

A July 10, 2025 McCarthy Tetrault article (**Settlements: Tax Outcomes Every Litigator Needs to Know**) discussed the **income tax treatment** of damages, settlement payments and indemnity payments that arise as a result of **commercial disputes**. Although directed to litigators, these principles are also **relevant** to **tax preparers and advisors** in **proactively** advising on claims and **determining** the **tax consequences** of **payments received**.

what the payment is intended to replace

These payments are **generally characterized** in the **same manner** as what they are intended to **replace**. This would most commonly be **business income** or **capital property** in a commercial context. In other contexts, payments could compensate for reputational damage, suffering, injury or death, typically attracting no tax.

A payment that **replaces business income** would **remain business income** to the **recipient**. A payment characterized as **capital** might be a **capital gain**, additional **proceeds** on an asset disposed of or a **reduction in the cost** of a related capital asset. While **capital treatment** would generally be **beneficial** to the **recipient**, it may be **detrimental** to the **payer**. However, the treatment of the **payer** would **depend on the circumstances** and **may not match** the treatment to the **recipient**. The article noted that there may be **flexibility** in classifying these payments.

proactively advising legal counsel on the possible tax ramifications

Considerations during the dispute process
The **purpose** of **amounts awarded** by a **court** would typically be **outlined** in the **judgement**. The **initial pleadings** and other documents related to the lawsuit **may guide this description**, making it important to **consider tax at the outset**. **Letters** between the **parties and their legal counsel**, **side**

agreements and **testimony** in the case may **also influence** the characterization.

The phrasing of a **settlement agreement** could also indicate the characterization. Where both **capital and income losses** were claimed, the agreement could **specify the allocation** between different claims.

reviewing a proposed settlement agreement for tax implications

Indemnities in share purchase agreements

structuring indemnity payments to reduce the share proceeds

Most **share purchase agreements** include **indemnity provisions** requiring the **vendor** to **compensate the purchaser** for **breaches** of representations and warranties or other covenants. These payments might be paid to the **purchaser**, typically **reducing** the **adjusted cost base** of the shares acquired, or to the **target corporation**, which **may** be argued to be **business income**. The **purchaser** would typically **prefer** a cost reduction. Providing for **indemnity payments** to be an **adjustment to the purchase price**, resulting in a payment to the purchaser, would **support this treatment**.

this possible timing issue

From the **vendor's perspective**, any indemnity would generally be a **reduction in proceeds** on the sale if it becomes payable **before the tax return** reporting the same is **due**, or a **capital loss** in a later year if it **becomes payable later**. As **capital losses** can only be **carried back three years**, it is **possible** that an **indemnity payment** may become payable **too late** to **offset** the **capital gain reported**, so that capital gains on other assets would need to be realized for the loss to generate any tax relief.

GST/HST considerations

The article also discussed potential **GST/HST** implications of **indemnities and settlement payments**, including a possible **deemed inclusion** of GST/HST in such payments (Excise Tax Act Subsection 182(1)) that can apply **even if the agreement or judgement is silent** on whether the payment is to be inclusive or exclusive of GST/HST. The payment will be **deemed to include GST/HST** when the following **requirements** are **met**:

- the parties entered a **contract** for the **provision** of a **taxable supply** in Canada;
- there was a **breach**, modification or termination of that **contract**; and
- **as a result** of such breach, modification or termination, the **purchaser made** a **compensation payment to** the **supplier** otherwise than as consideration for the taxable supply.

an explicit statement on whether possible payments are inclusive or exclusive of GST/HST

A **GST/HST inclusive** payment would typically be **advantageous** to the **purchaser** (payer) and **disadvantageous** to the **supplier** (recipient).

As an example, assume the $100,000 payment is subject to **13% HST**. If the payment is **exclusive of HST**, the **purchaser** must **pay HST** of $13,000 **in addition** to the **$100,000** compensation payment. Assuming they are eligible for an **input tax credit** (ITC) to recover this HST, their **net cost** will be **$100,000**. The full HST will be an added cost to the purchaser if they cannot

claim it back as an ITC (e.g. if the payment relates to an exempt supply such as a share purchase or sale). The **supplier** must **remit** the $13,000 of **HST** and will **retain $100,000**.

If the payment is **inclusive of HST**, the **deemed HST** of $11,504 ($100,000 x 13/113) can be **recovered** by the **purchaser** and **remitted** by the **supplier**, leaving a **net payment** of only $88,496 paid by the purchaser (assuming they can recover the ITC) and retained by the supplier.

INDIRECT VERIFICATION OF INCOME (IVI) – UNIDENTIFIED DEPOSITS

IVI tests and assessing techniques are used where CRA or Revenu Québec (RQ) believes that a taxpayer's books and records are inadequate, inaccurate, unreliable or non-existent or if an audit finding indicates that some taxable revenue has not been properly recorded in the books and records. IVI is an umbrella term covering several types of audit work, including **net worth assessments**, **projections** and **unidentified bank deposit analysis** assessments.

A June 6, 2025 French **Court of Quebec** case (Khan vs. QRA, 2025 QCCQ 2069) reviewed an assessment based on **bank deposit analysis**. The taxpayer had been assessed on the basis that **seven specific deposits** totalling over $163,000 were **unreported income**. The taxpayer **explained these deposits** as summarized below.

Taxpayer wins

traditions in the taxpayer's culture may explain transactions that appear unusual

Three deposits were from **cash wedding gifts** received by her **daughter**, who used them to **reimburse** wedding costs paid by the taxpayer. This was corroborated by her **daughter's testimony** and **explanations** of **traditional cultural events** related to the marriage, which occurred shortly before each deposit. **No evidence** was presented to **contradict** the taxpayer's explanation.

a plausible explanation may be sufficient in the absence of conflicting evidence

A **single deposit** was explained as funds **taken from the taxpayer's father** to protect her mother, as her father, who suffered from dementia, had become **incapacitated** and was **spending irrationally**. This was supported by **copies of** her father's **bank statements** showing regular cash withdrawals. The Court noted that **no evidence** was presented to **contradict** the taxpayer's claims.

the value of corroborating evidence from other parties to transactions

Two deposits were **loans from friends and family**, including one **repayment** of a **past loan**. These were received in connection with the purchase of a building. The taxpayer explained that such **non-interest bearing loans** between friends were **common** in her **ethnic community**, with **no written contracts**. These loans were traditionally **concluded by men**, such that she had an **incomplete understanding** of all of the details because her husband had negotiated the loans. The loans were

corroborated by the **other parties** to the loans.

The final deposit was **under $600** and was explained as a **contribution** to **family expenses** by her husband.

The Court noted that the **taxpayer** had been **fully cooperative** throughout the **audit** and there were **no indications** of any **income generating activities** not reported on her tax returns. While her **husband** and his **corporation** were **also audited**, the evidence showed that they maintained **separate finances**, so any issues with his tax filings and lifestyle were not relevant. The taxpayer's **plausible explanations** and **corroborating evidence**, absent any **conflicting evidence** presented by the tax authorities, was **sufficient** to **conclude** that the deposits were **not unreported income**. The Court ordered that the assessments be reversed.

6 Capital Gains/Losses 529(6)

PRINCIPAL RESIDENCE EXEMPTION (PRE) – MISSED DISCLOSURES

Individuals who **dispose** of their **principal residence** are **required** to **report** the disposition and **designate** the property as such (Schedule 3 and either T2091 for most individuals or T1255 for those deceased) in order for the gain to be **exempt** under the PRE. While CRA historically waived disclosure of fully exempt dispositions, this **waiver ended in 2016**. Without a designation, the PRE is not available.

Late designations

late designation acceptance and penalty application subject to CRA discretion

CRA has the authority to **accept** a **late designation** (which is deemed to be an election for this purpose; Paragraph 220(3.21)(a.1))) under the **taxpayer relief provisions** (Subsection 220(3.2)). A late election is subject to the standard **penalty** of $100 per month late, to a **maximum** of **$8,000**. **CRA** can **waive** the **penalty** at their **discretion** (Subsection 220(3.5)).

leniency period is over

A July 30, 2025 LinkedIn post by Ryan Minor, Director of Tax at CPA Canada reported **CRA's statement** that they **administratively** chose **not** to **assess** the **penalty** for late-filed designations in **2016** and **2017** particularly when there was no evidence of tax evasion; however, this leniency (referred to as amnesty period) without a taxpayer application for relief had **no statutory basis**. They further noted that the compliance program **currently applies** the **penalty** on a **case-by-case basis** in specific contexts, typically through **audits** or **targeted reviews**.

Extended assessment period

no statute-barred period for real estate dispositions that are not reported

CRA also has the legislative authority to **assess** any **taxpayer beyond** the **normal reassessment period**, in respect of a **disposition** of **real estate**

(including a principal residence) by the taxpayer (or a partnership of which the taxpayer is a member), where the disposition is **not reported** in the taxpayer's tax return (or in the case of a partnership, the partnership return) for the year in which the disposition occurs (Paragraph 152(4)(b.3)). CRA's ability to reassess is **limited** to the **unreported disposition** of the **real property** (Subsection 152(4.01)).

The measure applies only to property that is **capital property** for dispositions by **corporations** and **partnerships** and does not apply to real estate investment trusts (REITS) at all. For **other taxpayers**, **any unreported real estate disposition**, whether capital property or inventory, **extends the reassessment period**. Note that this is not restricted to real estate used as a principal residence – all types of real estate are included (for example, personal use property, even if disposed of at a loss). If the tax return is later amended to report the disposition, CRA's ability to reassess ends three years after the adjustment or amendment is filed.

These provisions apply to taxation years that end on or after October 3, 2016.

FAIR MARKET VALUE (FMV) OF TRANSFERRED REAL ESTATE

A July 24, 2025 French **Court of Quebec** case (Fountotos et al. vs. QRA, 2025 QCCQ 3259) reviewed the **sale** of a building from a corporation to a non-shareholder **employee** for **$350,000** on October 22, 2014. The building was subsequently sold on December 3, 2015 to a **third party** for **$1,322,460**.

penalties on late-filed returns apply on any future reassessments, not just on the tax in the return as filed or assessed

The corporation originally **acquired** the building in **2003** but listed it for **sale** in **2004** due to challenges in utilizing the building, including the departure of the commercial tenant, a public easement that prevented modifications, the irregular shape of the land and likely contamination. After several **additional attempts to sell** the property (2005, 2008, 2010), the corporation eventually **sold** the **property** to the **employee** in **2014**. The property was valued at $145,000 in 2010 during an insolvency proceeding. The corporation submitted its T2 return reporting the disposition several months after the deadline, which led to an uncontested late-filing penalty.

Revenu Québec (RQ) argued that the **non-shareholder employee**, the **corporation** and the corporation's **sole shareholder** did **not act at arm's length**. RQ also argued that the building was **sold** to the non-shareholder employee at **less than its FMV** and that the correct FMV was the amount for which the property was later sold to the third party ($1,322,460). As such, RQ assessed the **corporation** with an additional **capital gain** of $972,460 (the difference between the actual sale price and RQ's alleged FMV) and unremitted QST of $101,413 and GST of $43,031 on the sale. RQ also assessed the **shareholder** with a taxable shareholder **benefit** of the same amount. The non-shareholder employee was assessed with a taxable

benefit; however, he was not a party to the appeal.

providing support in FMV disputes

Fair market value
As neither party provided an independent appraisal of the building, the Court relied on the available documents and evidence, basing its decision on the **municipal assessment** amount of **$562,600**. The Court noted that the **subsequent sale** of the property at a **higher price** reflected **that buyer's interest** in the property for **strategic purposes** (intended to combine the property with an adjoining property to develop a $20,000,000 real estate project) and did **not reflect** the value for an **ordinary buyer**, such as the employee.

The Court also noted that it did **not appear** that the non-shareholder employee, the corporation or the shareholder were **aware** of the **third-party purchaser's planning** at the time of the sale to the employee. The **buyer testified** that they would not likely have laid their cards on the table when negotiating the purchase.

Arm's length relationship
The Court found that the **corporation** and the non-shareholder **employee** were **not** dealing at **arm's length** based on their **long-standing economic and business relationship** going back to 2000 and **shared financial interests**. For example, the employee had provided several loans to the corporation over the years. In addition, an entry in BVM's books described a payment of $295,000 to a "related company" with the taxpayer unable to explain the entry. In contrast, while the **shareholder** and **employee** had a **business relationship** and were **friends**, the **links** were **not sufficient** to constitute a **non-arm's length relationship**. The Court noted that the shareholder derived no personal financial benefit from the sale of the building to the employee.

Taxpayer wins
Based on the above, the Court found that the **corporation's capital gain** on the sale of the building to the employee should reflect the property's value of **$562,600** rather than RQ's assertion of $1,322,460. The Court also **dismissed** the **shareholder income inclusion** on the basis that the shareholder and employee were dealing at **arm's length**. In addition, the Court was **not convinced** that the shareholder **intended** to **confer a personal benefit** on the employee when authorizing the sale.

only parties who appeal benefit from a favourable court decision

Although the significantly lower value determined by the Court would also indicate that the employment benefit assessed was excessive, the employee was not a party to the appeal, so the Court did not discuss this element.

7 Purchase/Sale of a Business 529(7)

INTERGENERATIONAL BUSINESS TRANSFERS (IBT) – POST-SALE AMALGAMATION

The **IBT rules** permit an **exception** from **deemed dividends** when parents transfer shares of their corporation (Opco) to a corporation controlled by their children (Childco; Subsections 84.1(2.3), (2.31) and (2.32)). The requirements for both the **immediate** and **gradual** IBT rules include numerous detailed criteria that must be met both at the **transaction date** and for as much as **ten years afterwards** (see VTN 520(7954)). Several versions of the legislation were released, with various changes and amendments.

merger could retroactively taint an IBT

Throughout the **36 months** (immediate) or **up to ten years** (gradual) **following** an **IBT**, one or more children must **control** the child's corporation (Childco) that acquired the parent's shares of Opco. An August 2025 Canadian Tax Focus article (Intergenerational Transfer of a Business: Is a Post-Sale Merger Problematic?, Patricia Houle and Vincent Dansereau) discussed this requirement in the context of a **sale** of **Opco partly** to Childco and **partly** to an **arm's length third party** corporation (Thirdco), after which all corporations **amalgamated**. The amalgamated corporation is **deemed** to be a **continuation** of **each predecessor corporation** (Paragraph 87(2)(j.6)). Depending on **Childco's interest** in Opco, the **amalgamation** may be **problematic**.

Where a parent **sells 51%** of Opco to **Childco** and **49%** to **Thirdco**, upon the amalgamation of the three corporations, the **child** would **retain 51% control** of the amalgamated corporation (Amalco). As such, they would **continue** to **control** Amalco for **IBT** purposes. However, if a parent sells **50%** of their shares to **Childco** and **50**% to **Thirdco**, upon the amalgamation of the three corporations, the child that **previously controlled Childco** would **only** have a **50**% interest in **Amalco** and thus **cease to control Amalco**. As such, the requirement to maintain control after the sale would **not appear to be met**.

The authors noted that, while a strict interpretation of the rules may lead to this result, it may not be the result intended by Parliament. CRA has yet to comment on this issue in a public forum.

Editors' comment
This result contrasts with previous legislation applicable to transactions undertaken from June 29, 2021 to December 31, 2023 (sometimes referred to as Bill C-208 transfers), in which CRA opined that a post-sale amalgamation within 60 months of disposition would always result in a retroactive loss of IBT treatment (see VTN 525(8183)).

While the IBT provisions provide strict rules on ownership and control of Childco after the transaction, the legislation does **not** similarly **require** the **child** or Childco to **control Opco after** the **sale** (Subparagraph 84.1(2.31)(f)(i) and 84.1(2.32)(g)(i)). This may be of assistance when a parent **sells** some of their corporation to their child and another portion to an **arm's length third party**.

INTERGENERATIONAL BUSINESS TRANSFERS (IBT) – RELEVANT GROUP ENTITIES

The **IBT rules** permit an **exception** from **deemed dividends** when parents transfer shares of their corporation (Opco) to a corporation controlled by their children (Childco; Subsections 84.1(2.3), (2.31) and (2.32)). The requirements for both the **immediate** and **gradual** IBT rules include numerous detailed criteria that must be met both at the **transaction date** and for as much as **ten years afterwards** (see VTN 520(7954)). Several versions of the legislation were released, with various changes and amendments.

whether an entity is an RGE

Numerous requirements **restrict** the ability of the **parents** to hold any **control or ownership** of **Opco**, the **purchaser corporation** or a **relevant group entity** (RGE) subsequent to the sale. A relevant group entity is any **person** or partnership that carries on, at the disposition time, an **active business**, referred to as a relevant business, that is **relevant** to determining the status of **Opco's** shares as **qualified small business corporation** (QSBC) shares or shares of a family farm or fishing corporation (Subparagraphs 84.1(2.31)(c)(iii) and 84.1(2.32)(c)(iii)). It is **key** to **understand** whether an entity in a corporate group is an **RGE** and, therefore, **whether continued ownership** or control could prevent **access** to **IBT** rules.

A May 6, 2025 French **Technical Interpretation** (2024-1010641E5, Mathieu Francois) discussed whether Rentco would be an RGE to its sister corporation, Opco. Rentco owned real estate that was used exclusively by Opco in its active business operations. CRA assumed that there were **no intercorporate debts or shares** held between Opco and Rentco at any time. The **rent** from Opco to Rentco was **deemed** to be **active business income** (Subsection 129(6)). On the **sale of Opco** to a corporation (Holdco) owned by the vendor's adult son, **Rentco** would **not** be an **RGE** as Opco's status as a QSBC would not be affected by any business carried on by Rentco. As Opco held no shares or debt in Rentco, the asset tests to qualify as a QSBC would not be impacted by Rentco's business. Therefore, ongoing ownership and/or control of Rentco by the vendor would not jeopardize the exception from deemed dividends on the sale of Opco to Holdco.

CRA provided similar comments in another technical interpretation (see VTN 528(8328)) and further discussed the opposite scenario. They noted that on the **sale** of **Rentco** to Holdco, **Opco** would be an **RGE**, as Rentco could only

be a small business corporation and a QSBC due to a related corporation (Opco) being the primary user of Rentco's real estate in an active business.

careful review of impact of intercorporate debt or shares on IBT provisions

Intercorporate debt or shares
In both cases, **CRA assumed** that there were **no intercorporate debts** or **shares** held between the sister corporations. However, intercorporate debt and cross-ownership can be **common** for owner-managed businesses. If **Opco held shares** in Rentco or had an **amount due** from **Rentco**, then those **assets** would be **relevant** in determining whether **Opco's** shares met the **QSBC** test. As such, **Rentco** could be an **RGE** in respect of Opco. It may be argued that Rentco's business would still not be relevant for determining Opco's QSBC status if Opco could still meet the QSBC active asset test even if the investment in Rentco was not an active asset.

reviewing corporate group for RGEs well before a disposition

As a corporation's **status** as a **QSBC** is **impacted** by assets held at any point in the **24-month holding period** preceding a sale, **practitioners** may wish to **review** on an ongoing basis which entities in a corporate group are RGEs and whether such entities could prevent access to the IBT rules.

Editors' comment
A **specified investment business** (SIB) generally means the business of a corporation whose **principal purpose** is to earn **income** from property, such as **rent**, unless the corporation or an associated corporation employs more than five full-time employees for the purpose of carrying on the business throughout the year. Although, in the above situation, the **rent** that Rentco received from Opco was deemed to be **active business income** (Subsection 129(6)), Rentco itself was **not deemed** to **carry on an active business**. While **CRA** did **not** further discuss the issue or **comment** on Rentco's activities in either interpretation, it would seem that in **no case could Rentco be** an **RGE** in respect of Opco as an RGE is required to carry on an active business at the disposition time. While Rentco's income would be deemed to be active, the business itself would not be deemed to be active.

SALE OF BUSINESS INVOLVED IN LEGAL DISPUTE

A February 26, 2025 French **Technical Interpretation** (2023-098515117, Anne Dagenais) considered a situation involving the **disposition of shares** of a corporation at a time when the corporation was **involved in a legal dispute**. The shareholder (A) sold all of his shares in the corporation except one preferred share. The sale agreement stipulated that A would **receive dividends** based on the resulting compensation **if** the **corporation succeeded** in the pending litigation. If it **failed**, A would have to **reimburse certain legal fees** incurred by the corporation. The question posed was whether **legal fees reimbursed** by A in the case of failed litigation were **deductible** for A.

CRA did not provide a definitive position as the matter was considered a **question of fact**. However, it raised several **reservations** about the deductibility of the **legal fee reimbursement**. While a deduction might be allowed if the expense was incurred with a **reasonable expectation of earning income** from property (e.g. dividends), CRA emphasized that this generally **requires** a sufficiently **direct link** between the expense and the income source. In this case, the obligation to pay **arose** only **after any potential income** (dividends) had been **eliminated**, weakening any causal connection.

whether there was a direct tie between the income and the expense

Also, CRA noted that, even if a link to income could be established, the reimbursement **might still be denied** as a **personal expense** (Paragraph 18(1)(h)), as **not** being **reasonable** (Section 67) or as a **capital outlay** (Paragraph 18(1)(b)). CRA also suggested that the post-disposition expenditures could be deemed to be **capital losses** if they stemmed from guarantees or similar obligations related to disposed property (Paragraph 42(1)(b)). However, CRA stated that a detailed review would be needed to determine the appropriate treatment of the reimbursement, which was beyond the scope of this interpretation.

8 Corporate Tax

529(8)

ELECTIONS – CRA FILING MATTERS

In a recently released March 31, 2023 **Technical Interpretation** (2021-088554117, Julia Clarkson), CRA provided comments on the date **interest commences** in respect of **tax** on an **excess capital dividend**. They also contrasted the concepts of filing a prescribed form versus filing in a prescribed manner.

Capital dividends – interest

date that interest commences

Interest on the **tax** for an **excess capital dividend** begins accruing on the **date** of the **election** of the capital dividend (Subsection 184(2) and Section 185). The election is due on the **earlier** of the date the dividend **becomes payable** and the **first date** on which any portion of the dividend is **paid**. Absent any evidence to the contrary, CRA accepts the **date** on a **timely-filed election** form as the **date** of the **election**. If the **election** was filed **late**, the date of the election will be deemed to be the **earlier** of these **two dates** (Subsection 83(3)). In other words, if the election is filed on or before the due date, interest commences on the filing date. However, if filed late, interest starts on the filing due date.

Prescribed form vs. prescribed manner

The interpretation also asked about a taxpayer **filing multiple elections** on the **same day** (e.g. Form T2054, Election for a Capital Dividend Under Subsection 83(2), might be filed for 10 or more elections on the same day,

for the same or different amounts).

CRA opined that where the legislation states that an election must be made in **prescribed form** then a prescribed **form** must be filed for each **election** to be **valid**. As the prescribed form for capital dividend elections is T2054, each capital dividend must be elected using a separate Form T2054.

ensuring that, if multiple elections are required to be filed in a prescribed form, each election has its own prescribed form

CRA further noted that each **special election or return** ("SER") may have **varying instructions** and therefore the response may differ depending on those particular instructions.

In **contrast**, if there is **no prescribed form** and an election is simply required to be made in a **prescribed manner**, or in **writing** in the form of a letter, CRA noted that the **legislation** does **not appear** to **prevent numerous elections** being included in a **single letter**, provided that all the necessary requirements are met.

filing elections as required under the Act

The interpretation was requested by the Assessment, Benefit and Service Branch of CRA.

9 CRA

529(9)

AUTHORIZATION REQUESTS FOR INDIVIDUALS

On July 25, 2025, CRA released a **brochure** providing guidance on **how to submit an authorization request** for individual taxpayers through **Represent a Client** now that representatives cannot obtain online CRA access using their EFILE software (see VTN 524(8161)).

After the representative submits an authorization request on Represent a Client, either the **individual needs to confirm** the representative in **My Account** or the **representative** must upload a **signed consent form** (provided to the representative after entering **tax filing information** from a recent year). If the client is **unable** to **register for My Account** nor provide tax information, Represent a Client may **prompt** the representative to **obtain signed consent** and upload it as part of the authorization process. For example, this could be relevant for an individual taxpayer with no recent filing history.

In a **communication** **to CPA Canada**, CRA stated that, where **an individual identifies** that they are **unable to register** for **My Account** or use the **alternative authorization** process, the representative should still indicate that the client will **confirm within My Account**. Representatives will then receive the prompt to obtain the signed consent. This method should be used even if the client is unable to register for My Account. CRA may still **contact the taxpayer** to verify the representative's request.

this alternative for some personal tax clients

NON-COMPLIANCE WITH INFORMATION REQUESTS

On August 15, 2025, the Department of Finance issued several packages of draft legislation for consultation. The **FES** (Fall Economic Statement) **2024 and other proposals** package included **draft legislation** and **explanatory notes** related to **enhanced CRA abilities** to **obtain information** and reassess taxpayers. The draft legislation included **changes** from the original draft legislation previously released on August 12, 2024 (see VTN 513(7635)). These **changes included** the following:

- the provision that would require parties to provide and deliver information and **documents** in a **reasonable manner** and **time**, and without cost to the government, was modified to **eliminate** the **"without cost" element**;
- the proposed **penalty** applicable when a **compliance order** is issued would:
    - **be limited to 10%** rather than set at 10%;
    - **not apply** to scenarios where the taxpayer reasonably believed that the information was **protected by solicitor-client privilege**; and
    - be eliminated or subject to reduction if CRA finds the penalty disproportionate or unfair upon taxpayer objection; and
- the proposed penalty in respect of **notices of non-compliance** would **not apply** to scenarios where the taxpayer reasonably believed that the information was **protected by solicitor-client privilege.**

these modifications to proposed CRA powers

EFILERS – OUTSOURCING WORK

An April 22, 2025 TaxLawCanada.com article (What Is The EFILE Program? Eligibility, Requirements, Obligations, and Revoking of Registration: A Guide for Accountants & Tax Preparers, David Rotfleisch) provided **basic guidance** on the EFILE program, noting **several conditions** that must be **met** for an applicant to be **approved** and maintain status as an **EFILER**.

The article stated that EFILERS are **prohibited from subcontracting tax preparation work** as it may risk client **confidentiality** and security of the EFILE system. This is based on CRA's requirement that EFILERS deal directly with their clients. In addition, **subcontracting work overseas** (or even preparing work overseas without a subcontractor) would violate another condition to maintain one's EFILE status, as EFILERS should ensure that the "**return is prepared in and filed from Canada**" (see condition for suspension #5 on CRA's EFILE Eligibility webpage).

preparing returns offshore impacts EFILE status

Failure to comply with any of the eligibility conditions will allow **CRA** to **revoke** the **preparer's EFILE status**. CRA regularly monitors the compliance of EFILERS (e.g. relating to Form T183), the quality of electronic transmissions and complaints received about EFILERS.

See CRA's EFILE Eligibility webpage for further discussion.

REDUCED RELIEF – SECOND-LEVEL REVIEW

A July 8, 2025 **Federal Court** case (Chan vs. AGC, T-1569-23) addressed an application for judicial review of CRA's decision to partially **deny relief on arrears interest** for a disallowed GST/HST new housing rebate of $25,579. The taxpayer repaid the full amount approximately **five and a half years after** receiving the rebate. During this time, the taxpayer had objected to the assessment and applied for taxpayer relief.

paying outstanding amounts even if still under dispute or application for relief

Initially, CRA only granted **relief** from **interest** for the **13-month** period between when the CRA appeals agent confirmed the denial of the rebate and the issuance of a warning letter requesting the outstanding payment. CRA granted relief on the basis that it took too long to issue the warning letter.

a second-level review could result in the reduction of relief

Not satisfied, the taxpayer applied for a second-level review. The second agent **disagreed** that relief should be granted for the **original period** as the taxpayer would have **known his liability** when the assessment was confirmed. The **warning letter was not required**, nor was CRA obligated to send it. However, the second-level reviewer **granted relief** for a **six-month** period, noting that CRA's internal standard was to complete rebate audits within six months of application.

The Court found the second-level reviewer's **decision to be reasonable** and did not grant the judicial review.

ELECTRONIC PROVISION OF SLIPS – EXPRESS CONSENT

In general, **"express consent"** is required from a taxpayer before **slip issuers** can provide **information electronically** (such as T3s and NR4s), meaning the issuer must obtain the taxpayer's **written** or **electronically readable consent** (Regulations 209(3) and (4); see VTN 431(3558)). However, for certain slips like the T4, T4A, T5, Tuition and FHSA slips, express consent is not required where the issuer meets certain conditions (Regulation 209(5); see VTN 509(7448)).

A recently released November 6, 2023 **Technical Interpretation** (2022-0954001E5, Mei Ng) considered whether a taxpayer's verbal or touchtone phone-based consent would be considered express consent.

how consent for electronic delivery of slips was obtained

CRA concluded that **neither verbal** consent over the phone **nor the selection** of an electronic delivery option using a **touchtone phone** would generally **constitute express consent** as the consent must be in written or electronically readable format, not merely an audio recording or a non-documented keystroke.

T4A REPORTING – NON-PROFIT ORGANIZATIONS

NPOs must also issue T4As

A recently released November 17, 2022 **Technical Interpretation** (2022-0930451E5, Pierre Girard) noted that **non-profit organizations**, like businesses, are **required to issue T4A slips** for **service fees paid** (Regulations Subsection 200(1)). The same conditions, exceptions and penalties applicable to businesses paying fees for services also apply to NPOs (see VTN 515(7725)). The T4A reporting requirement is **not waived** simply because the **payer is a non-profit** or because the services relate to activities such as youth sports.

GAAR – OPTIONAL REPORTING ON FORM RC312

If a transaction potentially subject to **GAAR** was **disclosed** to CRA in a prescribed manner, neither the 25% penalty nor the extended reassessment period would apply (Subsection 245(5.1) and Paragraph 152(4)(b); see VTN 505(7279)).

this updated form

On July 21, 2025, CRA released an updated version of **Form RC312 Reportable Transaction and Notifiable Transaction Information Return** that includes **checkboxes** for these optional **GAAR disclosures**. The form can now be filed online using web forms.

10 Estate Planning 529(10)

TRUST REPORTING – DRAFT LEGISLATION

Historically, a **trust** was required to **file** a T3 return **only** if it met **one** of a number of **parameters**, and certain arrangements commonly referred to as bare trusts were excluded from the definition of trusts, and thus from filing requirements, entirely.

Effective for trust years ended **December 31, 2023** or later, **further requirements** were **added** for a trust to be excluded from the filing requirements, **new requirements** to **disclose** substantial **information** regarding a trust's **settlors, trustees, beneficiaries** and certain other persons were added (filed on **Schedule 15**) and **bare trust** arrangements were also required to file (although CRA waived the filing requirements for bare trusts first for 2023 and then for 2024).

Draft legislation to modify these requirements was released on **August 12, 2024**, but never tabled as a Bill. On **August 15, 2025**, revised **draft legislation** and **explanatory notes** were released. While similar to the previous draft legislation, the August 15, 2025 draft legislation was **modified** in several respects. The discussion below summarizes the proposed

requirements assuming that the August 15, 2025 draft legislation is implemented.

Conceptually, a **T3return** must be **filed** by **all resident trusts**, **including** bare trust arrangements proposed to be defined as **deemed trusts** (a term first introduced in the August 12, 2024 draft legislation). A **trust** that falls within one of **several exceptions**, which CRA refers to as **"listed trusts,"** and does **not** meet one or more of the **historical requirements to file**, would not need to file a T3 return. However, if a **listed trust** meets one or more of the **historical requirements**, it is required to file a T3 return but is **not** required to **file Schedule 15** (which discloses substantial information regarding a trust's settlors, trustees, beneficiaries and certain other persons).

The **first filings** under these new provisions would be required for **years ended** on or after **December 31, 2025**.

Deemed trusts
Proposed **deemed trusts** appear **similar to bare trusts**, but would be **specifically defined** as any arrangement under which:

bare trusts for income tax purposes would now be called deemed trusts

i. one or more persons (referred to as legal owners) have **legal ownership** of property that is **held for** the use of, or benefit of, **one or more persons or partnerships**; and
ii. the **legal owner** can reasonably be considered to **act as agent** for those **persons or partnerships**.

The **legal owners** referred to in (i) above would be **deemed** to be the **trustees** of the deemed trust, and the **persons or partnerships** for whom the property is held would be **deemed** to be **beneficiaries** of the deemed trust.

The explanatory notes to the draft legislation indicated that the definition of a **deemed trust** is intended to more **precisely define** what constitutes a **bare trust** for purposes of filing and beneficial ownership reporting requirements. It is unclear whether the trust arrangement in the Act that has come to be referred to as a "bare trust" actually matches the legal concept of a "bare trust."

Exclusions from deemed trusts
Arrangements that meet **any of the following criteria** for the taxation year would be **excluded from** the definition of **deemed trusts** and therefore have **no trust filing obligation** (the explanatory notes to the draft legislation provided some examples of situations intended to be excluded under these provisions):

a. each **beneficiary** at any time in the year was also a **legal owner** of the property and **all legal owners** were also **beneficiaries** (e.g. a joint bank account held by family members);

these broad exclusions from T3 return filings

b. the **legal owners** were all **related individuals** (an expanded definition for this purpose; see “Related persons” below), and the **property** was **real property** that could be designated as the **principal residence** of one or more of the legal owners for the year (e.g. a parent on title to a child's home to assist in financing or an aunt guaranteeing their niece’s financing);

c. the **legal owner** was an **individual**, and the property was **real property** that was held for the use or benefit of the legal owner's spouse or common-law partner and could be designated as the legal owner's **principal residence** for the year (e.g. a situation where one spouse is on title for a family home that is jointly owned and occupied);

d. the **property** was **held** solely **for** the use or benefit of a **partnership**, each **legal owner** was a **partner** of the partnership and a **partnership information return** (T5013) would be **required** for the partnership (this exclusion would still apply where CRA waived the requirement to file a partnership return (Subsection 220(2.1); the August 15, 2025 draft legislation would expand this criterion to allow limited partners to be the legal owners);

e. the legal owner held the property pursuant to an **order of a court**;

f. the **property** was **Canadian resource property** (as defined in Subsection 66(15)) that was **held** solely **for** the use or benefit of one or more **public corporations** (directly, through one or more controlled corporations or through one or more partnerships in which public corporations were the majority interest partners); and

g. the **property** was **held** exclusively for the use or benefit of one or more **tax-exempt persons** (included in Subsection 149(1)), each **legal owner** was such a **tax-exempt person** and the **property** consisted solely of **funds received from the Crown**.

A deemed trust that is not excluded by any of the above would be subject to the same trust reporting rules as any other express trust.

expanded definition of related persons

Related persons

For the purpose of filing a return (Section 150), a **related person** would include an **aunt**, **uncle**, **niece** and **nephew**. In addition, a person would be **related to themselves**. This expanded definition of related persons was added to the August 15, 2025 draft legislation and would be relevant in determining related individuals in respect of the exclusions from a deemed trust (discussed above) as well as certain requirements to be a listed trust (discussed below).

Filing and disclosure requirements

Listed trusts do **not** need to **file** a **T3** return **provided no historical filing criteria** apply. A **listed trust** is still **required** to **file** a **T3** return, but no Schedule 15, if the historical filing criteria apply. A trust that is **not** a **listed trust** must file **both** the **T3** return and **Schedule 15**.

Listed trusts

A trust **meeting any** of the following **criteria** would be a **listed trust** (Subsection 150(1.2); the Income Tax Act refers to these as “exceptions”) and therefore would not be required to file a T3 return unless a historical filing requirement applied. Some of the more common listed trusts are as follows:

a. **trusts** in **existence** for **less than three months during the year** (the August 15, 2025 draft legislation would revise this criterion to clarify that both trusts that were created less than three months before the end of the year and short-term trusts that existed for a period of less than three months (e.g. a trust created in June that is dissolved in July) would be listed trusts);

trusts that exist for less than three months would be listed trusts

b. trusts that hold **assets** with a **total fair market value** that **does not exceed $50,000** at **any time in the year**;

small trusts may still be listed trusts under broadened concept

c. trusts that meet **all** of the following **conditions**:

   i. each **trustee** is an **individual**;
   ii. each **beneficiary** is an **individual** (other than a trust) and is related (an expanded definition for this purpose; see “Related persons” above) to each trustee, **or** the **beneficiary** is a **graduated rate estate** (GRE) of such an individual (the August 15, 2025 draft legislation would modify this criterion to prohibit other trusts from being a beneficiary);
   iii. the total **fair market value** of the property of the **trust** does **not exceed $250,000** at any time in the year; and
   iv. the **only assets** held by the trust throughout the year are one or more of the following:

      A. money;
      B. guaranteed investment certificates issued by a Canadian bank, trust company or credit union (the August 15, 2025 draft legislation added credit unions);
      C. certain debt obligations issued by a Canadian government or other entities (Paragraph (a) of the definition of fully exempt interest in Subsection 212(3));
      D. certain debt obligations issued by entities listed on a designated stock exchange (in or outside Canada) or by authorized foreign banks;

ensuring all trust assets are in one of these detailed asset categories

E. shares, debt obligations or rights listed on a designated stock exchange;
F. shares of a mutual fund corporation;
G. units of a mutual fund trust;
H. interests in related segregated fund trusts (described in Paragraph 138.1(1)(a));
I. interests as a beneficiary under a trust, all the units of which are listed on a designated stock exchange;
J. personal-use property of the trust; or
K. a right to receive income on any property described in (A) to (J), above;

Editors' comment: While CRA has noted that dividends receivable are excluded from the prescribed assets listing (see VTN 507(7365)), such comments were made in respect of the existing legislation rather than the proposed legislation. It appears that point K may address the issue of dividends receivable.

d. trusts required under relevant **rules of professional conduct** or **legislation** to hold funds for the purposes of the activity that is regulated under those rules or laws, provided that
   i. the trust is **not maintained** as a **separate trust** for a **particular client** or clients; or
   ii. the only assets held in the trust are **deposits** and **GICs**, the total of which does **not exceed $250,000** at any point in the year (the August 15, 2025 draft legislation broadened this criterion to include GICs);

limited relief for trust accounts held for specific clients

e. **non-profit clubs, societies or associations** (Paragraph 149(1)(l)) and **registered charities**;

f. **mutual fund trusts**;

g. **graduated rate estates** (GRE) and trusts that would be a GRE if a return for the trust is filed (the latter was added in the August 15, 2025 draft legislation);

h. **qualified disability trusts**;

i. **employee life and health trusts**;

j. **registered trust accounts** like **RDSPs**, **RESPs**, **RRSPs**, **RRIFs**, **TFSAs** and certain supplemental pension plans (subset of retirement compensation arrangement; the August 15, 2025 draft legislation added supplemental pension plan);

these expansions would cover more trusts

k. trusts established for the purpose of **complying with** federal or provincial **law** that **requires** the **trustee(s)** of the trust to **hold property** in trust **for a specified purpose** (the explanatory notes to the draft legislation provided the examples of a trustee in bankruptcy and provincial guardians as relationships that would be covered by this new criterion);

l. **employee ownership trusts** (added by the August 15, 2025 draft legislation); and

m. **funeral and cemetery trusts**.

Historical requirements retained

Prior to the expanded trust reporting rules, a **T3 return** was **required** for all trusts (resident and non-resident) for tax years in which the trust met **any** of the following criteria:

- had **tax payable**;
- was **requested to file**;
- was **resident in Canada** and either **disposed of**, or was deemed to have disposed of, a **capital property** or had a **taxable capital gain**;
- was **non-resident** throughout the year and had a **taxable capital gain** (other than from an excluded disposition described in subsection 150(5)) or had **disposed of taxable Canadian property** (other than from an excluded disposition);
- was a **deemed resident** trust;
- held property that was subject to the **reversionary trust rules** (Subsection 75(2));
- provided a **benefit** of **more than $100** to a beneficiary for the upkeep, maintenance, or taxes on a **property maintained for the beneficiary's use**; or
- **received** any **income, gain, or profit** from the trust property that was **allocated to** one or more **beneficiaries**, **and** the trust had:
    - **total income** from all sources of **more than $500**;
    - income of **more than $100 allocated** to any **single beneficiary**;
    - made a **distribution of capital** to one or more beneficiaries; or
    - **allocated** any portion of the **income to a non-resident beneficiary**.

these circumstances that still require a T3 return filing

No changes were proposed to these requirements. Any **trust meeting** one or more of the above **criteria** is still required to **file** a **T3** return. If the trust is a listed trust, it will not need to include Schedule 15 in its T3 return.

Many of these criteria were **irrelevant** to bare trusts and would be similarly irrelevant to **deemed trusts**, as these types of trusts are **ignored** for **most** income tax purposes. Their **income** and other transactions are **reported** by the **beneficial owners** of the assets, **not by** the legal owners or by **a trust**.

Other Schedule 15 disclosure notes

reduced disclosure requirements for these types of trusts

Contingent beneficiaries of an **alter ego trust** or a **joint spousal** or **common-law partner trust** would **not** need to be **disclosed** in Schedule 15 (added in the August 15, 2025 draft legislation). Contingent beneficiaries of spousal trusts must continue to be disclosed in Schedule 15, even under the August 15, 2025 draft legislation.

A **settlor** of a trust would be defined for these purposes as any person or partnership that has **directly** or **indirectly**, in any manner whatever, **transferred property to** the **trust** at or before that time, **other than** a transfer made by the person or partnership to the trust for **fair market value** consideration or under a **legal obligation** to make the transfer. Under the **existing legislation**, the definition of a **settlor** (Subsection 17(15)) is extremely **broad**. While not noted in the explanatory notes, this amendment may have been included to ensure that **neither** of the following **would be deemed** to be a **settlor**:

> (a) a **person** (including, but not limited to, a trustee or beneficiary) who had **loaned funds to** the **trust**; or
> (b) a **corporation** that had **paid** a **dividend to** a **trust**.

Effective date

The rules for **listed trusts** and **deemed trusts** would largely **apply** to **trust year-ends** on or after **December 31, 2024**. **All** of the **additions** first included in the August 15, **2025** draft legislation would apply on or after **December 31, 2025**, with the exception of the broadening of the GRE criterion that would apply December 31, 2024.

TRUST REPORTING – SCHEDULE 15 PENALTIES

Two LinkedIn posts by Ryan Minor, Director of Tax at CPA Canada, dated July 30, 2025 and August 7, 2025, reported CRA's comments regarding **penalties** being assessed on **Schedule 15** and **common errors** made when filing.

carefully reviewing the notice of assessment

CRA noted that in some scenarios they **cannot accept Schedule 15** information as filed due to the **Privacy Act** and thus the **information** from the filed Schedule 15 is **not stored** by CRA. If not stored by CRA, they will **indicate** as such on the **notice of assessment**. If the practitioner **submits** a **T3 return** for the subsequent tax year and **indicates** that there is **no change** to their previously submitted **beneficial ownership information** (Schedule 15), they will receive a **penalty** because **CRA** has **no information stored on file**.

For example, due to the Privacy Act, CRA noted that they will **discard Schedule 15** if it was **filed** but was **not required to be filed**. For example, consider a trust that is a **listed trust** due to **being in existence** for **less than three months** at the **end of the year**, but is still required to file a T3 return

for the year. If **Schedule 15** is **filed** with the T3 return, CRA will **not retain** the **information** as listed trusts are not required to file Schedule 15. As such, if the practitioner indicates no change in Schedule 15 in the following year, CRA will assess a penalty.

CRA noted that, as it relates to the processing of T3 returns, there are no other circumstances where the Privacy Act would require them to discard information provided on the T3 return.

CRA also noted that **fiscal period end dates cannot** be **changed** in the **T3** return and attempting to do so can cause return processing errors.

ESTATE'S LOSS ON DECEASED'S RESIDENCE – CAUTIONS

An August 2025 Canadian Tax Focus article (Estate's Loss on Former Principal Residence Carried Back, Balaji Katlai and Henry Korenblum) discussed CRA policy, cautions and planning ideas where an estate has realized a loss on a deceased's residence.

potential tax opportunities in respect of a deceased's principal residence

An individual is deemed to **dispose** of their **property** at **fair market value** (FMV) at **death,** with their **estate acquiring** this **property** for the same amount. Assume that the **estate** then **disposes** of the **property** at a **loss** due to sale costs or a softening of the market. **CRA's position** is that this is a **loss** on a **non-depreciable capital property** that can be electively applied to the **deceased's terminal tax return** (Subsection 164(6); see VTN 365(5149)). CRA's rationale for such a position is that the **deceased** and the **estate** are **separate taxpayers**: the fact that the deceased used the property as their principal residence has no bearing on the type of loss to the estate.

However, if the property was **depreciable capital property** (due to being rented out or used in a business) or **inventory** (held for resale) of the **estate** and not non-depreciable capital property, a loss on disposition would **not** be a **capital loss** and thus could **not** benefit from this provision. While not noted in the article, terminal losses on depreciable property can also benefit from this provision (Paragraph 164(6)(b)); inventory losses do not benefit from the same treatment.

use of the property after death

If the estate's property was **personal-use property** as it was used primarily by a beneficiary of the estate or related person (e.g. a cottage being used by the deceased's children or a child living in the deceased's principal residence), the **capital loss** would be **deemed nil**. CRA's position assumes that the property was not used by anyone from death to disposition.

For **non-resident estates**, only **losses** on **taxable Canadian property** can be applied to the terminal return.

ensuring the estate is a graduated rate estate

These **losses** of the estate can only be **applied** to the **terminal return** of the deceased where the estate is a **graduated rate estate**. Draft legislation proposes extending the timeframe for realizing such losses from the first taxation year of the GRE to the first three taxation years of the GRE (Subsection 164(6); see VTN 517(7839)).

losses of other personal use assets that may be applied to terminal return

Based on CRA's reasoning that the deceased's principal residence should have no bearing on the tax result of the estate's losses, the article questioned whether the **same logic** could be applied to a **large piece of real estate** (where the property was not fully exempt under the principal residence exemption) such that a loss realized by the estate on the entire property could be applied to the terminal return. Likewise, **other personal use property** of the **deceased** beyond real estate may be argued to enjoy similar treatment.

PART IV TAX AND TRUSTS

An August 11, 2025 **Federal Court of Appeal** case (HMK vs. Vefghi Holding Corp. et al., A-264-23) addressed the question of the **point in time** when the **connected test** should be evaluated where a **dividend** received by a **trust** is paid to a **corporate beneficiary**.

different Part IV tax for connected vs. non-connected corporations

More specifically, a **trust received** a taxable **dividend** from a taxable Canadian **corporation** (Opco). The trust then paid the amount to a **corporate beneficiary** (Holdco) and **designated** it such that it was **deemed** to be **received** by Holdco **as a dividend** on the Opco shares (Subsection 104(19)). The Court was asked at what **point in time** it should be determined **whether Opco** and **Holdco** were **connected** for the purpose of calculating Part IV tax (Subsection 186(1)). If **connected**, the tax would generally be **Holdco's share of Opco's dividend refund**. If **not connected**, the tax would generally be **38 1/3%** of the dividend.

This **timing issue** was **important** because the trust **sold its** Opco shares to an arm's-length purchaser shortly after the dividend was paid. At the **time of payment**, Opco and Holdco were **connected**, but they **ceased** to be **connected** when the **Opco** shares were **sold**.

CRA argued that the **determination** of whether Opco is connected with Holdco for Part IV tax purposes is made when the **deemed dividend takes effect**, being when the amount is designated by the trust at the **end** of the **particular taxation year of the trust** in which the trust received the dividend.

The **taxpayer** argued that the **determination** is made **at the time** at which the **dividend was actually received by the trust**.

The **Tax Court of Canada** (TCC; see VTN 507(7366)) found that the **determination time** would **vary** depending on whether Holdco's fiscal year in which the dividend was reported included the date the dividend was paid

by Opco. A dividend designated by a trust becomes income of the beneficiary on the date of the trust's year-end, generally December 31.

determination is made at the end of the trust's tax year

Taxpayer loses
The FCA agreed with CRA's argument, stating that the determination of whether Opco is connected with Holdco for Part IV tax is made at the **end of the particular taxation year of the trust** in which the trust received the dividend from Opco. As the Opco shares were sold before that time, the corporations were not connected and full 38 1/3% Part IV tax applied.

Editors' comment
The interpretation of the provisions in this ruling may result in significant Part IV tax when dividends are paid from a corporation to a trust and then to a corporate beneficiary in the same year as the sale. As such, considerable care must be paid to these scenarios.

RRSP – QUALIFIED INVESTMENTS

penalties in respect of non-qualified investments

While RRSPs are generally exempt from tax, if an **RRSP** holds investments that are **not qualified investments**, the trust may be subject to **tax on its earnings** (Subsection 146(10.1)) and a **penalty tax** (1% of the fair market value/month, Subsection 207.1(1)).

In a July 4, 2025 **Federal Court of Appeal** (FCA) case (Grenon et al. vs. HMK, A-137-21), the taxpayer had created structures intended to allow **business earnings** to be flowed through **investment vehicles** eligible to be held **within RRSPs**, allowing the earnings to grow on a **tax-deferred basis**. See VTN 479(6056) for the Tax Court (TCC) of Canada ruling.

The taxpayer first created a **series of income funds** that would invest in **business ventures and** other **investments** controlled directly or indirectly **by himself**. He then **invested** in the funds **through his RRSP**. Approximately 170 friends, associates, and family members also invested in the funds; however, the majority of investments came from the taxpayer's RRSP.

Taxpayer loses – qualified investment
The TCC agreed with CRA that the **investments** were **not qualified investments**, subjecting the plan to tax on earnings and the penalty tax. The TCC noted that qualified investments (Subsection 146(1)) include mutual fund trusts (defined in Subsection 132(1)) and that, to be a mutual fund trust, certain conditions must be met, including a **lawful distribution of units** to **at least 150 beneficiaries** with at least one block of units each (Regulation 4801). The TCC found that the distribution did not meet this threshold.

whether an investment is a qualified investment

The FCA agreed with the TCC's ultimate conclusion that the RRSP held non-qualified investments, but came to this conclusion on the basis that "a **lawful distribution**… to the public" hinges on **compliance** of the **distribution** with

the **relevant provincial regulatory regime**. In this case, the **essential terms of each offering memorandum** were **breached** and thus there was no lawful distribution to the public, no mutual fund trust and no qualified investment.

Taxpayer loses – statute-barred period

filing T3 return for trusts to start the normal reassessment period

The TCC also agreed with CRA that the **RRSP assessments** were **not statute-barred** as **no prior assessments** had been **issued** in respect of the specific RRSP. While the trustee of the RRSP (CIBC) filed a single information return (T3GR) for all of the RRSPs for which it was a trustee, **no T3** return was **filed** for the specific **RRSP**, as the trustee determined that the RRSP did not have non-qualifying investments. The FCA held that the "trust notice of assessment" in respect of the T3GR did not start the statute-barred period with respect to Part I tax, especially as the T3GR noted that RRSPs with taxable income should file a T3 return. The RRSP should have filed a T3 return reporting its taxable income and by not doing so, accepted the risk that CRA would not issue a Part I assessment to start the normal reassessment period.

The FCA specifically noted that it did **not review** whether **GAAR** would have applied.

RECTIFICATION – ONGOING LITIGATION

A July 10, 2025 **Supreme Court of British Columbia** (BCSC) case (Bosa et al. vs HMK, 2025 BCSC 1284) considered whether to **grant rectification** of a trust deed and various declarations such that **all assets** of the trust would **vest indefeasibly** (see VTN 449(4421) and the August 2025 Canadian Tax Focus article, Indefeasible Vesting To Avoid the 21-Year Rule, Cadie Yiu for further discussion) to the **beneficiaries** from May 1, **2008** (the trust was settled on February 15, 1988). If rectification was granted, the beneficiaries would effectively **avoid** over **$1 million** of **tax** resulting from the **trust failing** to **distribute** the trust **property** prior to the **deemed disposition** on the 21st year of the trust. The tax consequences are the **subject** of an **appeal** before the **Tax Court of Canada** (TCC) that is to be **heard** in May 2026.

Taxpayers lose

whether a rectification is even possible where there is an ongoing dispute in the Tax Court

The **BCSC declined** to **grant rectification**. The BCSC found that the **true purpose** of this application was to **interfere** with the **appeal process** currently before the **TCC**. Although the reassessment was not directly before the BCSC, a **declaration** that the trust property **vested indefeasibly** in the beneficiaries in 2008 would **directly impact** the **primary basis** upon which the trust was **reassessed**. The BCSC also noted that, while declining to hear the application would result in the beneficiaries having to **wait for the TCC decision**, **various actions** by the beneficiaries already **delayed** the **TCC proceeding** by well over a year.

11 Relationship Breakdown 529(11)

SPOUSAL OR CHILD SUPPORT

A July 16, 2025 **Tax Court of Canada** case (Vohra vs. HMK, 2023-1979(IT)I) considered the deductibility of **$33,000 in support payments** claimed as spousal support for 2019. The primary issue was the extent to which monthly payments of $8,000 made under a July 2019 consent order constituted deductible spousal support rather than non-deductible child support.

revised or new agreements could change taxability of payments

While the Minister had **allowed a deduction** of **$3,500/month** for January to June 2019 paid under a **prior separation agreement** that explicitly identified the amount as spousal support, it denied deductions for payments made in the latter half of 2019. The **consent order** that took effect on July 1, 2019 (which replaced the separation agreement), did **not specify which portion** of the $8,000 payment was exclusively for **spousal support**. Any support amount that is not identified in the agreement or order as being solely for spousal support is child support (definition of child support in Subsection 56.1(4)).

whether the order or agreement specifies the spousal support

Taxpayer loses
Pursuant to the **original separation agreement**, **$2,500** of each **monthly payment** was **for child support**. The **taxpayer argued** that the **same amount** of the **revised** $8,000 monthly **payment** would also be for **child support**, leaving the **remaining $5,500** to be deductible as **spousal support**. The **Court disagreed**, noting that, since the consent order replaced the separation agreement and did **not identify any portion** of the $8,000 as solely **spousal support**, the payments were **all child support** and therefore neither deductible by the payer nor taxable to the recipient.

12 International 529(12)

US VOLUNTARY DISCLOSURE – WILLFUL NONCOMPLIANCE

reduced risk of self-incrimination in the future

In a June 24, 2025 blog post (Criminal VDP: TAS Reports a Win For Taxpayers – IRS Agrees to Remove Willfulness Checkbox on VDP Application Form), the US National Taxpayer Advocate noted that the **IRS** had **accepted** its suggestion that the **"willfulness checkbox"** be **removed** from Form 14457, **Voluntary Disclosure** Practice Preclearance Request and Application. As such, on the next version of the form, applicants will **no longer** need to **check a box** affirming that they were **willful** in their **noncompliance**. The Advocate's concern was that checking this box would cause applicants to incriminate themselves and therefore put a chill on the

voluntary disclosure process as a whole.

FORM T1134 – FILING REQUIREMENTS

A January 30, 2025 **Technical Interpretation** (2024-1036931E5, Mei Ng) discussed **which taxpayers** were required to file **Form T1134, Information Return Relating To Controlled and Non-Controlled Foreign Affiliates** in the following hypothetical situation:

- **Canco**, a taxable Canadian corporation, **owns 100% of Forco1**, a non-resident corporation;
- **Forco1** owns **100% of Forco2 and Forco3**, also non-resident corporations;
- **Canco** has **various Canadian shareholders**, including both corporations and individuals, each of whom owns **over 10%** of Canco; and
- each Forco would be a **foreign affiliate** and a **controlled foreign affiliate** of Canco, its shareholders and shareholders of Canco's foreign shareholders.

a careful analysis of direct and indirect shareholdings

CRA noted that the **modified definition** of **equity percentage** (Subsection 95(4), modified by Subsection 233.4(2)) would result in **Canco** being the **only entity** required to file Form T1134 in respect of the Forcos. As **Canco directly** owned shares of **Forco1**, it would be **required to file Form T1134** in respect of Forco1. Further, as **Canco indirectly** owned shares in **Forco2 and Forco3** through **a non-resident corporation** (Forco1), it would be **required to file Form T1134** in respect of Forco2 and Forco3.

indirect ownership of a foreign affiliate through a Canadian corporation does not create a filing requirement

Shares held **indirectly** through **Canadian corporations** would **not** create a **filing requirement**, so only the **lowest tier Canadian corporation**, Canco, would be required to file Form T1134. Its **shareholders** would have **no filing requirement**.

CORPORATE EMIGRATION

the requirements for a corporation to change residency

An August 2025 Canadian Tax Focus article (**Corporate Emigration Refresher**, Kathryn Walker) discussed the **planning and mechanics** for corporations emigrating from Canada (that is, ceasing to be resident in Canada), whether in response to tariffs or for other reasons. A corporation **incorporated outside Canada** can emigrate by **shifting central management and control** from Canada to the desired jurisdiction of residency. However, corporations **incorporated in Canada** after April 26, 1965 must be **continued** into the **other jurisdiction's corporate law**. Its **central mind and management** could still result in residency in Canada under Canadian law; however, a **treaty** with the new country may contain a **tiebreaker rule** resulting in residency in the new jurisdiction.

On emigration, the corporation will be **deemed to dispose** of and reacquire **all** of its **assets** for **fair market value** (Subsection 128.1(4)). Further, a special **tax** applies (Section 219.1) equal to **25%** of the **value** of all corporate **assets** less **outstanding debt** and the **paid-up capital** of the corporation's shares. The 25% **rate** can be **reduced** to the rate for **dividends** under a **tax treaty** with the **new jurisdiction** of residency unless one of the main purposes of emigration was to avoid Canadian taxes (Section 219.3). There are **no Canadian tax implications** for the **shareholders** of the emigrating corporation.

this potential tax cost on emigration

The article also discussed several complex **planning possibilities** that may be available depending on the facts and circumstances.

SOURCE DEDUCTIONS – EMPLOYMENT OUTSIDE CANADA

A recently released December 12, 2023 **Technical Interpretation** (2023-0967811E5, Mei Ng) discussed **source deduction requirements** for a **Canadian resident** working **outside Canada**. CRA confirmed that the **employer** is **required** to **withhold source deductions** from remuneration paid to a **Canadian resident employee** (Paragraph 153(1)(a)), regardless of the employer's residence and **regardless of where** the **employee performs** their employment **duties**.

source deductions are required for Canadian resident employees regardless of where they work

CRA stated that **foreign source deductions** required on the employee's **remuneration** earned **outside Canada** do **not reduce** the required **Canadian source deductions**, despite the fact that the employee will be eligible for a **foreign tax credit** in respect of taxes payable to the foreign country. The **employee** could **request** a **Letter of Authority** to allow the employer to **reduce Canadian withholdings** to account for the foreign withholdings by filing **Form T1213, Request to Reduce Tax Deductions at Source** or by sending a written request. CRA recommended including a completed **Form T2209, Federal Foreign Tax Credits** or a letter to provide **details and calculations** supporting the credits that will be available. A **Letter of Authority** is issued for a **specific tax year**, so these must be **obtained** on an **annual basis**.

requesting a Letter of Authority annually to mitigate the cash flow implications of source deductions to two countries

13 GST/HST

529(13)

GST ROUND-UP

CRA provided some recent interpretations on GST/HST matters as follows:

- A **medical practitioner** offered patients a **block fee arrangement**, allowing **email communication** for **medical questions** for a flat fee. CRA opined that this arrangement was a supply of **intangible personal property**. It provided the **right to obtain a predetermined set of uninsured services** rather than providing an exempt health care service (Section 5 of Part II of Schedule V) as no service was rendered at the time the fee was charged and the arrangement was not tied to any specific service provided. As such, the block fee was a **taxable supply** subject to GST/HST (July 30, 2025 GST/HST Ruling 247167). See VTN 403(1774) for a discussion of these fees as a medical expense.

charging GST/HST if registered

- A merchant entered into two separate agreements: one for **payment card processing services** and another for **point-of-sale equipment**, software and related services. CRA opined that the **point-of-sale equipment**, software and related services were **taxable** as **no exemption** from GST/HST applied, while the **payment processing services** were generally **exempt financial services** (Section 1 of Part VII of Schedule V). Whether the supplier is making a single or multiple supply is a question of fact; GST/HST Policy Statement P-077R2 provides guidance on this matter (December 13, 2024 GST/HST Ruling 247852).

what the portion of the fee relates to

14 Did You Know...

529(14)

ALBERTA – CHANGE TO ONLINE MAIL FOR CORPORATIONS

An August 5, 2025 **Alberta** Tax and Revenue Administration special notice (Transition to Electronic Notice of Delivery on TRACS) stated that, **effective April 1, 2026**, the **default** corporate income tax **correspondence method** will be switched **to online mail** for the following corporations:

- **new corporations** incorporated with Alberta Corporate Registry;
- **existing corporations** with a **TRACS account**; and
- **corporations** who have given **access to a third-party organization** (such as an accounting firm) to manage their account.

ensuring email addresses are current

The Administration suggested ensuring that **email addresses** on TRACS are **current** as email **notifications** will be **automatically sent** when correspondence is posted to TRACS. Correspondence is considered to be **received** by the corporation on the **date it is posted** to TRACS.

Corporations not switched to online mail will continue to receive notices of **assessment/reassessment by paper mail**; however, **statements of account** will **no longer be mailed** effective April 1, 2026. Such information will only be made available online in the TRACS account.

whether application for paper mail should be made

Corporations may **request paper mail** if a **"Request for Paper Mail" form** is completed. Further details will be released closer to April 1, 2026. The request must be completed again every two years. Any undeliverable mail will result in the corporation's default method of delivery reverting back to online mail through TRACS.

UPCOMING COURSES

this opportunity for an update of key developments over the past year

Tax Update 2025
Join us for our 41st annual **Tax Update seminar** to get **up-to-date and relevant tax planning tips and traps** for owner-managed businesses. These sessions offer 14 hours of practical tax information through in-person or virtual platforms. Also, for those who prefer extra flexibility, do not forget about our pre-recorded option!

Instructors Caitlin Butler CPA, CA and Joseph Devaney CPA, CA will be joined by a special instructor, Hugh Neilson FCPA, FCA, TEP or Kenneth Keung CPA, CA, CPA (CO, USA), CFP, TEP, LLB, MTax.

Click here to see who is scheduled for your city or region. Limited spaces are available for in-person and virtual live offerings, so register early to secure your first choice.

getting your new preparers into the corporate tax groove

Newbies to Ninjas: Corporate Tax
Do you need to train summer staff or new starts this fall? The **11th Edition of Newbies to Ninjas: Corporate Tax** is open for registration! This concise **online 3-hour topic-by-topic course** will have your newer tax preparers completing corporate tax returns like ninjas. Sessions run every two weeks. Click here for further details.

Ethics Courses
Every aspect of our profession brings **ethical challenges**. Strengthen your ethics framework – **four new 1-hour ethics courses** are now available! They include:

these ethics courses bringing the theory into public practice

- Ethics in Action: Navigating the Sale of Tax Ideas and Plans
- Making Ethics Routine: The Power of Ongoing Conversations in Building Firm Integrity

- The Fine Line: Ethical Social Media Marketing and Content Creation for Professionals
- Demystifying AI for Accountants: Risks, Rewards and Ethics

Each course offers practical insights to support sound professional judgment. They are available as a bundle with a 25% discount.

AI Tools in Tax
Ready to **explore using AI** in your tax practice but unsure where to start? Join us for a **practical 1-hour pre-recorded** course that discusses how AI is changing Canadian tax planning, research and advisory services. It highlights how AI is reshaping workflows and client engagement, while offering practical insights into areas where AI can deliver value. The course also outlines **key factors** to consider when **evaluating** and **implementing new technology** tools and provides a **high-level framework** to support informed, future-ready decisions. For further information, click here.

this resource for integrating AI into your tax practice

15 Appendix 529(15)

APPENDIX A

Additional Video Tax News Resources and Recently Released CRA Publications and Forms

Video Tax News Resources

- Video Tax News Members Portal and Newsfeed
- Video Tax News Members Portal – A How To Use The Portal Video Tutorial (6 mins)
- Summary of Recent Tax and Benefit Proposals
- Tax on Split Income (TOSI) – Quick Reference Chart
- Underused Housing Tax (UHT) – Quick Reference Chart
- Selected Temporary CCA Incentives – Quick Reference Chart
- Life in the Tax Lane – 10 Minute Monthly Podcast/Video
- Technical Interpretations

CRA Guides/Publications

- Folio S2-F2-C1, Employee Professional Membership and Other Dues
- NEWS120 Excise and GST/HST News – No. 120
- NOTICE342 Nova Scotia HST Rate Decrease – Questions and Answers on General Transitional Rules for Personal Property and Services
- T4091 T5008 Guide - Return of Securities Transactions 2025
- RC4058 Quick Method of Accounting for GST/HST
- CONTACTS Contact Information – Excise and Specialty Tax Directorate

CRA Forms/Statements/Returns

- T2057 Election on Disposition of Property by a Taxpayer to a Taxable Canadian Corporation
- B241 Excise Tax Return - Broker
- B256 Excise Act, 2001 - Application for Refund
- B261 Excise Duty Return - Duty Free Shop
- B262 Excise Duty Return - Excise Warehouse Licensee
- B263 Excise Duty Return - Licensed User
- B264 Excise Duty Return - Special Excise Warehouse Licensee
- RC151 GST/HST Credit and Canada Carbon Rebate Application for Individuals Who Become Residents of Canada
- B501 Luxury Tax and Information Return for Non-Registrants
- TD4 Declaration of Exemption - Employment at a Special Work Site
- T5008 Statement of Securities Transactions
- T5008SUM Return of Securities Transactions

- L500 Luxury Tax Registration Application
- L500-1 Non-Resident - Records Kept Outside Canada
- L500-2 Application or Revocation of the Authorization to File Separate Luxury Tax Returns for Branches and Divisions
- L501 Tax Certificate Application
- L502 Special Import Certificate Application
- B500 Luxury Tax and Information Return for Registrants
- B502 Luxury Tax - Information Return for Non-Registrants
- B503 Luxury Tax Rebate Application for Foreign Representatives
- T1-OVP 2025 Individual Tax Return for RRSP, PRPP and SPP Excess Contributions
- T1-OVP-S 2025 Simplified Individual Tax Return for RRSP, PRPP and SPP Excess Contributions
- RC2503 Request for Waiver or Cancellation of Part X.1 Tax - RRSP, PRPP and SPP Excess Contribution Tax
- T2030 Direct Transfer Under Subparagraph 60(l)(v)
- T2033 Direct Transfer Under Subsection 146.3(14.1), 147.5(21) or 146(21), or Paragraph 146(16)(a) or 146.3(2)(e)
- T2078 Election Under Subsection 147(10.1) for a Single Payment Received from a Deferred Profit Sharing Plan
- T2151 Direct Transfer of a Single Amount Under Subsection 147(19) or Section 147.3
- T2220 Transfer from an RRSP, RRIF, PRPP or SPP to Another RRSP, RRIF, PRPP or SPP on Breakdown of Marriage or Common-law Partnership
- T106 Information Return of Non-Arm's Length Transactions with Non-Residents (2025 and later tax years) T106 Summary Form
- RC66 Canada Child Benefit Application includes federal, provincial, and territorial programs
- RC66SCH Status in Canada and Income Information for the Canada Child Benefits Application
- RC66-1 Additional Children
- RC312 Reportable Transaction and Notifiable Transaction Information Return (2023 and later tax years)
- RC3133 Reportable Uncertain Tax Treatments Information Return (2023 and later tax years)
- B200 Excise Tax Return
- B243 Tax on Insurance Premiums Return - Insured
- B268 Notification of Fiscal Months
- B269 Application or Revocation of the Authorization to File Separate Excise Duty Returns and Refund Applications for Branches or Divisions
- NR304 Direct Deposit for Non-Resident Tax Refunds
- B273 Excise Return - Cigarette Inventory Tax
- CTB9 Income of Non-Resident Spouse or Common-Law Partner for the Canada Child Benefit
- RC113 Direct Deposit Request for Children's Special Allowances
- RC64 Children's Special Allowances

- RC65 Marital Status Change

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