HVGP
CHARTERED PROFESSIONAL ACCOUNTANTS Hufton Valvano Grover Philipp LLP
4308 Village Centre Court | Mississauga | ON | L4Z 1S2

BARE TRUST REPORTING: It's Here!

New rules aimed at increasing transparency regarding the beneficial ownership of assets held through bare trust arrangements have been enacted and will apply to taxation years ending on and after December 31, 2026. These changes may catch **many individuals and businesses** that **are unaware** of their trust-like relationships, exposing them to potential **penalties** and other consequences for non-compliance.

A trust arrangement generally exists where the registered owner of an asset holds **legal title on behalf of** another person or entity that is the **true beneficial owner**. Where the **trustee** has **no independent power or discretion** over the property, the arrangement will typically be considered a **bare trust arrangement**. Historically, bare trust arrangements were not subject to T3 filing requirements. However, starting **2026**, if a bare trust **exists at any time during the year**, the bare trustee may be required to file T3 return and Schedule 15. While certain exceptions may apply, many arrangements that were previously outside of the trust reporting requirements will now be required to file. ***For a reportable bare trust with a December 31, 2026 taxation year-end, the first return will generally be due March 31, 2027.***

Does a bare trust arrangement exist?

To determine if a bare trust arrangement exists, the following question should be asked:

- **Who is the legal owner of the property/asset?** Typically, this is the person who is on legal title of the asset or who holds the asset.
- **Who is the beneficial owner of the property/asset?** This is the person who has the rights and obligations of the property/asset. For example, in the case of real estate, who has the right to use, collect rent and direct its disposition? Who has the obligation to maintain the property and pay the associated costs, such as taxes? Who is entitled to the proceeds on a sale of the property and who funded its acquisition?

If the legal owner differs from the beneficial owner, then a bare trust arrangement likely exists.

There are **several reasons** why an **individual, business or organization** may use a **bare trust arrangement**. Many parties involved in a bare trust arrangement may **not realize** that they are, much less that there may be a filing requirement with CRA. **No lawyer** may ever have been involved, and no written agreement may ever have been drafted. However, **failure to comply** with the trust reporting requirements could result in **significant penalties**.

While there are **countless possibilities of bare trust arrangements**, the following are **some** common **examples**. Certain exceptions may apply to the scenarios described below; these are fact-specific and should be discussed with us to determine their applicability

Individual Reasons

- a parent is on **title of a child's home** (without the parent having beneficial ownership) to **assist** the child in **obtaining a mortgage**;
- a parent or grandparent holds an **investment or bank account in trust for** a child or grandchild;
- **one spouse** is on **title of a house**, although the other spouse is at least a partial beneficial owner;

Estate Planning Reasons

- a child is on **title of a parent's home** (without the child having beneficial ownership) for estate planning/probate/capacity purposes;
- a child is on **title of a parent's financial accounts** (or other assets) to assist with administration after the parent's passing;

Business Administration Reasons

- a **corporate bank account** is **opened by the shareholders,** with the corporation being the beneficial owner of the funds; ***a common trigger for bare trust return filing requirements***;
- a **corporation** is on **title** of an **individual's real estate, vehicle** or **other asset**, and vice-versa;
- assets **registered to one corporation** but are beneficially **owned by a related corporation**;
- use of a **nominee corporation** for real estate development purposes;
- a **partner of a partnership** holding a **bank account or asset** for the benefit of all the other partners of a partnership;
- a **joint venture** arrangement where the operator holds legal title to development property as an agent for the benefit of other participants;
- a **cost-sharing arrangement** where a person holds a business bank account, or other assets, to facilitate the arrangement while having no, or only partial, beneficial interest in these shared assets;
- **Internal administrative arrangements (e.g. cash pooling)** – Certain arrangements may create a bare trust, such as where treasury and banking functions are consolidated within a single entity in a larger corporate group.

Industry-specific Issues

- a **property management company** holding operational bank accounts in trust for their clients, or individuals managing properties for other corporations holding bank accounts for those other corporations; and
- **a lawyer's specific or general trust account**.

Common exclusions for T3 trust return filing requirements (not considered a "Deemed Trust")

- **co-ownership** – 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); Beware that this exception is only applicable if the family members also have beneficial interest in this joint account. Where an adult child is named in a joint account with a parent for estate planning and probate administration purposes but have no beneficial interest to the assets at all, this may be reportable unless it is considered a Listed Trust, see section below.
- **family-owned principal residence** – the legal owners were all related individuals 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);
- **spousal use of principal residence** – 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. one spouse is on title for a family home that is jointly owned and occupied);
- **partnership property** – 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) was required for the partnership (even if CRA waived the requirement);
- **Court-ordered** – the legal owner held the property pursuant to an order of a court;

Where it is Deemed Trust, you may still be excluded from filing if it is a Listed Trust. Listed Trusts generally do not have to file a T3 return unless requested by the Minister, such as the following:

- **temporary trusts** – trusts in existence for less than three months;
- **de minimis trusts** – trusts that hold assets with a total fair market value (FMV) that does not exceed $50,000 at any time in the year;
- **small family trusts with qualifying assets** – trusts that meet all of the following conditions:
    - each trustee is an individual;
    - each beneficiary is an individual (other than a trust) and is related to each trustee, or the beneficiary is a graduated rate estate (or a trust that would be a GRE if the estate had properly designated itself as a GRE) of such an individual;
    - the total FMV of the property of the trust does not exceed $250,000 at any time in the year; and
    - only specific assets, generally money, publicly traded securities, certain exempt life insurance policies and personal-use property, were held by the trust throughout the year;
- **regulatory trusts** – 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
    - the trust is not maintained as a separate trust for a particular client or clients; or
    - 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;

- **registered charities and non-profit clubs, societies or associations**;
- **mutual fund trusts**, related segregated fund trusts, publicly listed trusts, prescribed master trust;
- **graduated rate estates** and trusts that would be a GRE if the estate had properly designated itself as a GRE;
- **qualified disability trusts;**
- **employee life and health trusts**;
- **registered trust accounts like RDSPs, RESPs, RRSPs, RRIFs, TFSAs, EPSPs, FHSAs and certain supplemental pension plans;**
- **employee ownership trusts;**
- **funeral and cemetery trusts;**
- **certain Indigenous trusts;**
- **statutory purpose trusts; and**
- **farmers equity trusts.**

If you have any questions, give us a call at 905 891 5339.

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