

This letter contains information regarding Trusts and UHT filing requirements

This information is provided as general notice only and not advice specific to your situation. If you have a question about whether your arrangement is a trust, please contact your lawyer or our office to discuss.

BARE TRUST REPORTING REQUIREMENTS:

As a result of changes to the Income Tax Act, the new trust reporting regime will require most trusts to file T3 Trust Return annually for tax years ending on or after December 31, 2023, including trusts that have never filed before. **The deadline to file the trust return is March 31, 2024.**

- Trusts subject to the new rules will have to file a return and report information regarding all Trustees, beneficiaries, and settlors of the trust.
- There are significant penalties for non-compliance and failure to file the required returns; minimum penalty is \$100 to a maximum of \$2,500.
- Trusts may exist with respect to any form of assets: land, bank accounts, real property, and others.
- The filing requirement applies to property in excess of \$50,000 at any time during the year.
- A bare trust exists when the legal title holder is separate from the beneficial owner.
- Common types of bare trust arrangements, include but are not limited to:
 - estate planning transfers where a party (often a parent) transfers land, the family home, real property, or bank accounts into the name of adult child, or into the joint names of themselves and a child, to avoid probate, or simplify the administration of their estate. In doing so, the intention is that the parent remains the beneficial owner of the accounts or property until their death.
 - homes, vacation properties, farmlands, or other real property held in the name of multiple parties, where not all parties contributed to the purchase, or the parties were not truly gifted a share of ownership in the property. This is common where a child, or other family member builds a home on farmland that has not been subdivided, and consequently title to the home and cultivated acres are legally held by multiple parties.
 - a child adds a parent to the title of their property in order to obtain financing.
 - bank accounts with a joint account holder in which one party does not have beneficial use.
 - legal title is held by a corporation, but the beneficial owner is a separate entity or individual.
 - Joint Venture and Partnership agreements

When a Trust exists with respect to Residential Property the trust will also be required to complete the Underused Housing Tax. We had sent out information to you earlier this month regarding the filing requirements; but here is some of the information again.

UNDERUSED HOUSING TAX (UHT) REPORTING REQUIREMENTS:

Effective for all tax years that end on or after December 31, 2022.

The obligation to file a return if you own a residential property as one of the following:

- *Canadian Corporation*
- *Non-Residents*
- *Trust Arrangements (including Bare Trusts that hold residential property)*
- *Partnership Arrangements. There is significant debate on what constitutes a partnership. The CRA opinion (although this has not been consistent) is that a partnership exists when two parties are carrying out a “business” or have a partnership agreement. Co-owners is applicable for joint arrangements with no business activity.*

The deadline to submit the form UHT2900 for 2022 and 2023 applications (the link is on our website under Resources) **is April 30, 2024.** The 2022 deadline was extended from October 31. The Penalties are significant at \$5,000 for individuals and \$10,000 for corporations.

If a trust has multiple trustees, each trustee must file a return to report their proportionate share of ownership as indicated on the land title because the UHT filing requirements for trusts are based on registered ownership, as shown in the land registry system.

If you have any questions on any of this, please feel free to contact our office at 306-752-9506. We would be happy to answer any questions you may have.

Sincerely,

