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THE BALANCE SHEET

SMITH | SYKES | LEEPER | TUNSTALL LLP
CHARTERED PROFESSIONAL ACCOUNTANTS

A NOTE FROM THE PARTNERS

IN THIS ISSUE

A very Happy New Year! We hope you had a wonderful holiday filled with family, friends and good health!

Questions to consider: Have you added children to the title of your home or family cottage for estate planning or probate purposes? Did you put yourself on title for a child's home to help them qualify for a mortgage? Do you share a joint bank account with an elderly parent or with a child? Have you set up an in-trust-for (ITF) account for a minor child? Are you a settlor, trustee, or beneficiary of a Family Trust?

If you answered yes to any of those questions, then you'll want to read our featured article on the *New Trust Reporting Requirements.*

The *first tax instalment of 2024 will be due on March 15th.* Keep in mind that CRA's interest rate on unpaid instalments has increased to 10%! Please ensure you are keeping up-to-date with your instalment payments.

A reminder that the *deadline for CEBA loans to qualify for partial forgiveness has been extended to Jan. 18, 2024.*

As always, do not hesitate to contact us with any questions.
George, Bryan, Dale, Trent, Brad, David, Paul & Brennan

TRUST REPORTING REQUIREMENTS

Navigating the New Trust Reporting Rules in Canada with In-depth Insights on Bare Trusts

Questions to consider this year ...

- Have you added children to the title of your home or family cottage for estate planning or probate purposes?
- Did you put yourself on title for a child's home to help them qualify for a mortgage?
- Do you share a joint bank account with an elderly parent or with a child?
- Have you set up an in-trust-for (ITF) account for a minor child?
- Are you a settlor, trustee, or beneficiary of a Family Trust?

If any of these scenarios apply to you, then you'll want to read on!

Understanding the Changes:

The Canadian government's new trust reporting rules, effective from the 2023 tax year onwards, aim to enhance transparency and ensure accurate reporting of income generated within trusts. These changes apply to various trust structures, including family trusts, testamentary trusts, alter ego trusts, and notably, bare trusts. T3 Returns and disclosure forms for taxation years ending on or after December 31, 2023, must be filed by April 2, 2024.

Key Highlights:

Enhanced Disclosure Requirements:
All trusts, including bare trusts, must adhere to more detailed reporting. This includes identifying trustees, beneficiaries, and settlors, including names, addresses, and Social Insurance Numbers. Specific transactions and events, such as distributions and contributions, must also be reported.

Under these rules, beneficiaries include persons who currently have a right to income or capital as well as those having residual or contingent interests. As a result, some beneficiaries might not know that they have an interest in the trust, which could cause issues when collecting information from them.

TRUST REPORTING REQUIREMENTS
CONTINUED

Enhanced Disclosure Requirements (continued)

A trust would be considered to have met the reporting requirements if it provides this information for each trust beneficiary whose identity is known or ascertainable, with reasonable effort at the time of filing. For beneficiaries whose identities are not known or ascertainable, a trust can comply by supplying sufficiently detailed information on the T3 return to determine with certainty whether any particular person is a beneficiary.

Penalties:
The updated reporting rules also introduce a new penalty for non-compliance: either $2,500 or 5% of the property's value, *whichever is greater*. This is in addition to the existing penalties for the failure to file a trust return.

In guidance issued on December 1, the CRA announced that no penalties would be imposed for submitting a trust return and a Schedule 15 for bare trusts after the 2023 tax year deadline. It's important to note that the filing requirement remains in place, and penalties may be applied for knowingly or grossly negligent failures to file, according to the CRA.

Recognizing that the 2023 tax year marks the first instance where bare trusts must file a T3 return with the new Schedule 15, the CRA is taking an education-first approach to compliance and offering proactive relief to address potential uncertainties among bare trusts about these new requirements.

Common Exceptions:

- Trusts which have been in existence for less than three months at the end of the year;
- Trusts which hold less than $50,000 in assets *throughout the taxation year* (provided their holdings are confined to cash, certain debt obligations, and listed securities)
- Estates that qualify as graduated rate estates during the initial 36 months after the individual's death
- Trusts that qualify as non-profit organizations or registered charities

TRUST REPORTING REQUIREMENTS
CONTINUED

Insights on Bare Trusts - Real-Life Examples:

Bare trusts are a simple concept; it is where one person’s name is shown as the owner of an asset, but the asset truly belongs to someone else. The trustee is merely vested with legal title and has no independent duties or powers concerning the trust property. The trustee’s sole responsibility is to deal with the property as the beneficiary directs. The beneficiary retains the full beneficial ownership of the property in question, and, as a result, the income and gains realized on the trust property are taxed in the beneficiary’s hands.

Adding Children on Title to a Family Home or Cottage:

Scenario: Parents put property in their children's names for estate planning purposes, or to minimize probate tax, with the parents retaining beneficial interest.

This joint ownership typically results in the creation of a bare trust, where the adult child becomes the trustee, holding legal title but with limited authority. The parent, as the settlor and sole beneficiary, retains control over decisions related to the property. The adult child acts solely on the parent's instructions and cannot take any action without their direction.

For instance, if the parent decides to sell the family home, the adult child's role is to convey legal title based on the parent's instructions. The proceeds from such a sale entirely benefit the parent.

Reporting Obligation: The bare trust, in this case, involves children holding legal title while the parents are the settlors and the beneficiaries. The children must report the details of the property and the beneficial interest held by the parents.

TRUST REPORTING REQUIREMENTS
CONTINUED

Parents Holding Partial Title on Children's Property:

Scenario: Parents and children jointly own a property, with each party having a distinct share in the property.

In the current competitive real estate market, it's not uncommon for parents to agree to be included on the deed and mortgage for their adult child's home. This helps facilitate the child's eligibility for a mortgage even though the parents haven't financially contributed to the purchase and won't have any active responsibilities concerning the property. In this case, it is likely a bare trust has been created.

Reporting Obligation: In this scenario, each party's ownership interest must be disclosed. The trustees, in this case, are both the parents and the children and the reporting should outline the specifics of each party's share.

Joint Bank Accounts:

Scenario: A parent includes their child as a joint owner of a bank account, allowing the child to assist with tasks like bill payments and other banking matters on behalf of the parent. Both individuals acknowledge that the funds in the account are intended exclusively for the parent's benefit.

Reporting Obligation: The trust reporting requirements may extend to joint bank accounts where one party holds legal title, and the other party is a beneficiary. The details of the account, including transactions and beneficial interests, must be accurately reported.

TRUST REPORTING REQUIREMENTS
CONTINUED

In-Trust-For Accounts:

Scenario: A parent deposits money into an "in-trust" account for the benefit of a minor family member. In this arrangement, the minor, designated as the beneficiary, has the right to close the account and access all funds once they reach the age of 18.

Reporting Obligation: The trust reporting requirements may extend to informal "in-trust-for" accounts where one party holds legal title, and the other party is a beneficiary. The details of the account, including transactions and beneficial interests, must be accurately reported.

Conclusion:

Staying informed about the new trust reporting rules, especially concerning bare trusts, is critical for trustees. *It is crucial to note that bare trusts will now be required to file a T3 tax return*, adhering to the enhanced disclosure requirements outlined by the Canadian government. Our team is here to support you in adapting to these changes and ensuring a seamless transition.

If you have any questions or require further clarification on how these changes may impact your specific bare trust situation, please do not hesitate to reach out to us. We are committed to assisting you in navigating the evolving landscape of tax regulations.

KEY DATES

A few key dates to keep in mind:

Feb 29, 2024: T4, T5 filing deadline; RRSP deadline

March 15, 2024: 1st personal tax instalment

April 2, 2024: General Trust return deadline; Partnership information return deadline

April 30, 2024: Individual tax return deadline; Self-employed HST balance due

Our Staff enjoyed a lovely holiday lunch at Hungry Brew Hops in December

ARTICLES OF INTEREST

Underused Housing Tax (last month's feature article) was extended to April 30, 2024
For more information

Life in the Tax Lane - video
An overview of all the latest in tax news.

New Year, New Tax Measures
Find out what to expect

OTHER UPDATES

- The deadline for CEBA loans to qualify for partial forgiveness has been *extended to Jan. 18, 2024*.
- The prescribed rates rise again in 2024. The interest rate charged on overdue taxes, Canada Pension Plan contributions, and employment insurance premiums will now be 10%

Q. What's an accountant's favourite profanity?

A. SHEET!!